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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Technical assistance and capacity-building

Situation of human rights in Yemen, including violations and abuses since September 2014

Report of the United Nations High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts and a summary of technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry**

Summary

The present report is being submitted to the Human Rights Council in accordance with Council resolution 36/31. Part I of the report contains the findings, conclusions and recommendations of the Group of Eminent International and Regional Experts on Yemen. Part II provides an account of the technical assistance provided by the Office of the United Nations High Commissioner for Human Rights to the National Commission of Inquiry into abuses and violations of human rights in Yemen.

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** The annexes to the present report are circulated as received, in the language of submission only.

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9. As a priority, the Group of Experts applied best practices to ensure the safety, security and well-being of witnesses and victims. The present report includes information only where sources granted their informed consent and where disclosure of the information would not lead to any harm. Primary responsibility for protecting victims, witnesses and other persons cooperating with the Group rests with their States of residence and nationality.

10. Consistent with established practice, the Group of Experts applied a "reasonable grounds to believe" standard of proof.

11. Where the Group found information linking alleged perpetrators to specific violations or patterns of violations, such information has been transmitted to the High Commissioner on a strictly confidential basis. In instances where there was insufficient information to identify particular individuals responsible for violations, the party or group responsible has been identified, where possible.

12. The Group of Experts expresses its gratitude to the victims and witnesses who shared their experience. It is also grateful for the assistance provided by government and non-governmental entities and for the support received from United Nations agencies and partners.

C. Legal framework

13. Yemen is a State party to 9 of the 13 core international human rights treaties, which remain applicable in periods of armed conflict. The Government retains positive obligations in areas where it has lost effective control.

14. The de facto authorities control large swathes of territory, including Sana'a, and exercise a government-like function in that territory such that they are responsible under international human rights law.

15. Yemen is in a state of non-international armed conflict. In this context, international humanitarian law obligations arise under both treaty and customary law. All parties to the conflict, their armed forces and persons or groups acting on their instructions or under their direction or control are bound by customary international law. Yemen, the coalition forces and non-State actors are parties to the conflict and must abide by the fundamental principles of distinction, proportionality and precaution when conducting hostilities. Moreover, they must ensure that constant care is taken to spare the civilian population, civilians and civilian objects.

16. Yemen is not a party to the Rome Statute of the International Criminal Court, nor are many of the other States involved in the conflict in Yemen. However, many of the Rome Statute's provisions reflect customary international law.

D. Context

17. In 2011, a popular revolution arose against the 33-year rule of Ali Abdullah Saleh, President of Yemen. A deal brokered by the Gulf Cooperation Council granted Saleh immunity and transferred power to Vice-President Abd Rabbo Mansour Hadi. Yemenites conducted a National Dialogue Conference, accompanied by a constitution-making process. In 2014, the conflict escalated between the government forces led by President Hadi, the Houthis and other armed groups over power-sharing arrangements and the draft constitution. In September, the Houthis and the armed forces aligned to former President Saleh seized and consolidated control over the capital, Sana'a and other parts of the country.

18. In March 2015, Saudi Arabia formed a coalition with Bahrain, Egypt, Jordan, Kuwait, Morocco, Senegal, the Sudan and the United Arab Emirates to initiate military action at the request of President Hadi.[1] The United States and the United Kingdom, among other States, advise and support the coalition. The coalition forces launched an air

[1] Qatar was a member of the coalition until June 2017.

campaign causing significant civilian casualties. On 8 October 2016, in one of the deadliest incidents, the coalition targeted Al-Kubra Hall in Sana'a during a funeral, killing at least 137 male civilians and injuring 695, including 24 boys. In addition to air strikes, coalition naval forces imposed severe restrictions and, in late 2017, enforced a de facto blockade on Yemeni seaports, hindering imports of essential supplies to the country. In August 2016, the coalition effectively closed Sana'a International Airport. The airport remains closed to commercial aviation to date.

19. Intense hostilities continue in certain parts of Yemen despite the grave humanitarian impact on the population. The violence is exacerbated by food insecurity, limited access to health care and restrictions on imports of vital commodities. The non-payment of public sector salaries since August 2016, following the Government's move of the central bank from Sana'a to Aden, has also had a devastating impact on civilians.

20. The well-established front lines remain largely unmoved after three years of fighting, although control of territory continues to change hands at the local level. The United Arab Emirates has established control across southern Yemen, both by its direct action and through its proxy forces, namely the Security Belt Forces, the Hadrami Elite Forces and the Shabwani Elite Forces, despite resistance from President Hadi, who has disavowed those forces (see S/2018/242).

21. In 2015 and 2016, suicide and other attacks, claimed by Al-Qaida and groups affiliated with the Islamic State in Iraq and the Levant, ravaged Sana'a, Aden and elsewhere, resulting in high civilian casualties.

22. On 4 November 2017, the Houthis fired a missile into Saudi Arabia. Two days later, the coalition announced a complete blockade of all the country's borders — air, sea and land; over the following weeks, it was gradually lifted. In 2018, the Houthis continued to launch missiles into Saudi Arabia.

23. The simplistic view of a binary conflict between the Government and the Houthi-Saleh alliance, while never accurate, had become increasingly muddled as loyalties shifted, armed groups proliferated and factions fragmented.

24. Following continued tensions between the Houthis and Saleh allies, their forces clashed in Sana'a in December 2017. Former President Saleh was killed by the Houthis. In January 2018, the Southern Transitional Council, established in May 2017, declared a state of emergency in Aden and its supporters clashed heavily with government forces. A cautious calm resumed following intervention by the coalition. The Southern Transitional Council forces, backed heavily by the United Arab Emirates, continue to control major cities in southern Yemen.

25. In June 2018, the coalition and affiliated forces launched an offensive on Hudaydah. After a few weeks, it was halted, ostensibly to allow space for United Nations mediation efforts. As over 120,000 displaced people have fled the governorate, humanitarian agencies have warned of grave risks to civilians if fighting affects the critical port city.

26. Since March 2017, the Office for the Coordination of Humanitarian Affairs has designated Yemen as the world's largest humanitarian crisis. In April 2018, out of a population of 29.3 million, 22.2 million persons were in need of humanitarian assistance, including 11.3 million in acute need. Needs extend across all sectors, including health, food, sanitation and water, housing and protection.

E. Violations of international law

1. Attacks affecting civilians

27. From March 2015 to June 2018, there were at least 16,706 civilian casualties, with 6,475 killed and 10,231 injured in the conflict; however, the real figure is likely to be significantly higher.

28. Coalition air strikes have caused most of the documented civilian casualties. In the past three years, such air strikes have hit residential areas, markets, funerals, weddings,

detention facilities, civilian boats and even medical facilities. The Group of Experts has investigated 13 such incidents by interviewing victims, witnesses and other credible sources; analysing satellite imagery, photographs and videos; and visiting sites in the Hudaydah, Sa'dah and Sana'a governorates.

29. Residential areas have repeatedly been hit by air strikes, often resulting in significant destruction and civilian casualties. In 60 cases, the Group of Experts reviewed air strikes that hit residential areas, killing more than 500 civilians, including 84 women and 233 children. The Group investigated the 25 August 2017 air strikes that hit a residential building in the Faj 'Attan area of the city of Sana'a, killing at least 15 civilians and injuring another 25, including 7 women and 11 children. It also investigated the 20 December 2017 incident in the Bab Najran area of the Sa'dah Governorate in which three coalition air strikes hit a family home, killing at least 12 civilians, including at least 3 women and 3 children.

30. In 29 incidents, the Group of Experts reviewed air strikes hitting public spaces, including attacks on targets in densely populated areas that killed more than 300 civilians. The Group investigated two incidents where air strikes hit hotels. The 23 August 2017 air strike in the Bayt Athri area of the Arhab district, Sana'a Governorate, and the 1 November 2017 air strikes that hit a hotel in Al Layl market in Sa'dah Governorate combined killed more than 50 male civilians and injured another 50. In each case, at least 12 boys were among the casualties.

31. The Group of Experts has also reviewed 11 incidents where air strikes hit marketplaces. In a particularly egregious case, on 15 March 2016, coalition air strikes on Khamees market in the Mastaba district of the Hajjah Governorate killed more than 100 civilians, including 25 children. Since the establishment of the Group's mandate, at least five markets have been struck. The Group investigated the 26 December 2017 air strikes on the Mahsees Market in Ta'izz Governorate, which killed at least 36 male civilians and injured another 46.

32. Funerals and weddings have also been affected. The Group of Experts reviewed five air strikes involving such gatherings. The 8 October 2016 attack on Al-Kubra Hall in the city of Sana'a during the funeral of the father of a senior official killed at least 137 civilians and injured 695, including 24 boys. The Group investigated the coalition air strike on 22 April 2018 that hit a wedding celebration in Al-Raqah village, in the Bani Qa'is district of the Hajjah Governorate. At least 23 male civilians were killed, including 8 boys.

33. The Group of Experts reviewed four air strikes that hit detention facilities since the beginning of the conflict, including the 29 October 2016 air strikes on the Security Directorate Prison in the Al Zaidia district of the Hudaydah Governorate, which killed at least 63 male civilians, mainly detainees. The Group investigated the 13 December 2017 coalition air strikes on a detention facility at a military police camp in the city of Sana'a that killed at least 42 male civilians, some detainees, including 8 boys.

34. In 11 air strikes hitting civilian boats off the shores of Hudaydah from November 2015 until May 2018, of which 9 were reviewed and 2 investigated by the Group of Experts, approximately 40 fishermen were killed or disappeared. In another incident examined by the Group in which coalition aircraft targeted a boat carrying refugees on 17 March 2017, a total of 32 Somali refugees, including 11 Somali women, and 1 Yemeni civilian were killed, and another 10 persons were reported missing.

35. Despite the special protection afforded to medical facilities and educational, cultural and religious sites under international humanitarian law, many such facilities and sites have been damaged or destroyed by coalition air strikes throughout the conflict. The Group of Experts reviewed information concerning at least 32 such incidents. It received credible information that the no-strike list of protected objects was not being adequately shared within the coalition command chain.

36. Several air strikes have damaged facilities operated by Médecins sans frontières, including a clinic in the Houban district of the Ta'izz Governorate, hit on 2 December 2015; an ambulance in the Sa'dah Governorate, struck on 21 January 2016; and a hospital in the Abs district of the Hajjah Governorate, hit on 15 August 2016. All the locations of the

Médecins sans frontières facilities had been shared with the coalition and the ambulance was clearly marked. On 11 June 2018, Médecins sans frontières reported that an air strike had hit a new cholera treatment centre in the Abs district of Hajjah Governorate. It indicated that the coordinates of the facility had been shared with the coalition on 12 separate occasions.

37. The specific cases investigated by the Group of Experts raise serious concerns about the targeting process applied by the coalition. The Group submitted a request to the coalition for specific information on this process; regrettably, it has not received any response to date. The brief public reports by the coalition's Joint Incidents Assessment Team do not provide any detail on the targeting process. Therefore, the Group has been limited to examining the results of air strikes.

38. Based on the incidents examined, and information received in relation to the targeting process, the Group of Experts have reasonable grounds to believe the following:

(a) In the absence of any apparent military objective in the vicinity, the objects struck raise serious concerns about the respect of the principle of distinction and how military targets were defined and selected. The use of precision-guided munitions would normally indicate that the object struck was the target;

(b) The number of civilian casualties raises serious concerns as to the nature and effectiveness of any proportionality assessments conducted;

(c) The timing of some attacks and the choice of weapons raise serious concerns as to the nature and effectiveness of any precautionary measures adopted;

(d) The failure to ensure that all relevant commanders have access to the no-strike list raises serious concerns about the ability of the coalition to comply with the special protections accorded to such objects;

(e) The use in some cases of "double strikes" close in time, which affect first responders, raises serious concerns as to whether updated proportionality assessments and precautionary measures were carried out for the second strikes.

39. If there are errors in the targeting process that effectively remove the protections provided by international humanitarian law, these would amount to violations. These may, depending on the circumstances, amount to war crimes by individuals at all levels in the member States of the coalition and the Government, including civilian officials.

40. Shelling and sniper attacks by parties to the conflict have resulted in large numbers of civilian casualties in the Hajjah, Lahij, Ma'rib and Ta'izz governates. The Group of Experts focused on such attacks in the city of Ta'izz, an urban environment with some of the most intense and sustained fighting in the country. The Group could not access Ta'izz for security reasons, but obtained information from numerous reliable sources.

41. The situation in Ta'izz is complicated due to the large number of armed groups operating in the city, including Houthi-Saleh forces, pro-Hadi forces, Salafist militias, Islah militias and jihadist groups. Many parties fighting in Ta'izz have been responsible for civilian casualties. While the constant clashes have resulted in shifting front lines within the city, the Houthi-Saleh forces have maintained control of the highlands surrounding the city since the start of the conflict. The Group of Experts gathered reports of shelling by Houthi-Saleh forces from the highlands and areas of the city under their control resulting in the majority of civilian casualties. However, the breakdown of responsibility for civilian casualties in Ta'izz requires further investigation.

42. The information available indicates that civilians, including women and children, were hit by shelling and snipers from the Houthi-Saleh forces and other parties to the conflict while in their homes, just outside their homes, fetching water at local wells, on their way to purchase food, travelling to seek medical attention and delivering critical supplies. Some witnesses alleged that they were subjected to almost daily attacks in their residential neighoourhoods.

43. A large number of witnesses consistently reported that incoming fire from mortar, artillery and small arms originated from Tabat Softel Hill, Al-Salal Hill, Air Defence Hill,

Central Security Hill, and the Al-Khalwah, Al-Hareer, Al-Houd, Al-Salheen and Al-Qohous mountains, all under the control of the Houthi-Saleh forces when the attacks took place.

44. A small number of victims were caught in crossfire, but many said they were not near active hostilities or near military forces or objects when they were hit, and witnesses were often able to corroborate this information.

45. The Group of Experts is concerned by the alleged use by the Houthi-Saleh forces of weapons with wide area effect in a situation of urban warfare, as the use of such weapons in an urban setting is indiscriminate. Such acts would be violations of international humanitarian law.

2. Access restrictions

46. Restrictions on humanitarian access remained a critical constraint in Yemen. International humanitarian law requires all parties to the conflict to allow and facilitate rapid and unimpeded passage of humanitarian relief, including medicine, food and other survival items.

47. The coalition has imposed severe naval and air restrictions in Yemen, to varying degrees, since March 2015, citing the arms embargo provisions of Security Council resolution 2216 (2015). Prior to the conflict, Yemen imported nearly 90 per cent of its food, medical supplies and fuel. These de facto blockades have had widespread and devastating effects on the civilian population, in particular in the areas controlled by the de facto authorities.

48. Following the imposition of severe restrictions, the United Nations Verification and Inspection Mechanism was established to facilitate commercial shipping to Red Sea ports not under the control of the Government. The coalition nonetheless maintained an additional inspection process, and has denied entry to vessels on a seemingly arbitrary basis. The coalition has not produced a written list of prohibited items, and items are sometimes blocked without warning. While clearance by the United Nations Verification and Inspection Mechanism has taken an average of 28 hours, the additional coalition clearance process can take several weeks.

49. On 6 November 2017, in response to missiles fired at Saudi Arabia by Houthi forces, the coalition imposed a total blockade on all the borders of Yemen, preventing all humanitarian aid and commercial trade, including food and fuel, from entering the country. After the coalition announced that it would allow urgent humanitarian and relief materials to enter, the first shipments of food reached Hudaydah on 26 November. The first vessel containing fuel entered on 22 December. In April 2018, the coalition announced that all ports were reopened; however, as of June 2018, restrictions remain.

50. The arbitrary nature of restrictions, compounded by the November blockade, has had a clear chilling effect on commercial shipping.

51. The impact of these developments on the civilian population has been immense. The accessibility of food and fuel has significantly declined, due to increased costs of bringing goods to markets. These costs have been passed on to consumers, rendering the limited goods available unaffordable for the majority of the population. The problem has been exacerbated by the Government's non-payment of public sector salaries, affecting one quarter of the population, since August 2016. The effects of the price increases coupled with the erosion of their purchasing power have been disastrous for the population.

52. The harm to the civilian population caused by severely restricting naval imports was foreseeable, given the country's pre-conflict reliance on imports. By November 2017, the international community had repeatedly underscored the effects of the existing restrictions and had warned of the catastrophic effects of the announced closure of all ports. The duration of the restrictions raises additional concerns that systemic damage to the economy is occurring.

53. As of April 2018, nearly 17.8 million people were food insecure and 8.4 million were on the brink of famine. Health-care facilities were not functioning, clean water was

less accessible and Yemen was still suffering from the largest outbreak of cholera in recent history.

54. Despite their significant impact on civilians, these restrictions are unlikely to be effective in achieving their stated military objectives due to the absence of a clear and published list of prohibited items. Moreover, in the three years that the naval restrictions have been in place, no searches by either the United Nations Verification and Inspection Mechanism or coalition forces have discovered weapons.

55. The coalition and the Government have had sufficient notice of the harm caused and their responsibility for it, and sufficient opportunity to correct the situation. No possible military advantage could justify such sustained and extreme suffering of millions of people. The coalition has failed to cancel or suspend the restrictions, as required under international law.

56. On 9 August 2016, the coalition effectively closed Sana'a International Airport to commercial traffic. This has prevented thousands of Yemenites from seeking medical care abroad. In the meantime, the health-care system in Yemen has disintegrated. Those who are chronically ill and need to leave the country must attempt alternative routes that require long journeys across active front lines at high risk and at high costs. For example, on 31 August 2017, the founder of the Yemen Red Crescent Society died because he could not obtain the life-saving treatment he needed in Yemen and could not travel abroad for such treatment. Since August 2016, only United Nations and humanitarian flights have been permitted at Sana'a International Airport, and during the November 2017 blockade even those were halted for more than three weeks.

57. Prior to August 2016, commercial flights to Yemen were required to stop in Saudi Arabia for inspection en route. The coalition has not explained the military necessity of closing the airport completely, including to those genuinely seeking immediate medical treatment abroad.

58. There are reasonable grounds to believe that these naval and air restrictions are imposed in violation of international human rights law and international humanitarian law. The Government is required to achieve progressively the full realization of the economic and social rights of the people in Yemen and to at least ensure satisfaction of minimum standards of these rights. The Government and the member States of the coalition must also allow and facilitate rapid and unimpeded passage of humanitarian relief. Given the severe humanitarian impact that the de facto blockades have had on the civilian population and in the absence of any verifiable military impact, they constitute a violation of the proportionality rule of international humanitarian law. The effective closure of Sana'a airport is a violation of international humanitarian law protections for the sick and wounded.

59. Such acts, together with the requisite intent, may amount to international crimes. As these restrictions are planned and implemented as the result of State policies, individual criminal responsibility would lie at all responsible levels, including the highest levels, of government of the member States of the coalition and Yemen.

60. Ta'izz, a strategically important city located between Sana'a and the port cities of Aden and Hudaydah, is facing ongoing hostilities and significant access restrictions. Parties to the conflict have impeded the delivery of humanitarian and other goods indispensable to the survival of the civilian population in Ta'izz. The restrictions imposed by the Houthi-Saleh forces have been particularly harmful.

61. From approximately March 2015 until March 2016, the Houthi-Saleh forces controlled the two main entry points into Ta'izz, one on the west side of the city and one on the east. From March to July 2015, there were continuous armed clashes between these forces and local armed groups within the city. Checkpoint commanders only permitted civilians to leave the city without their personal belongings. Civilians could only enter the city on foot and much of their food and medicine was confiscated or looted at checkpoints. Trucks carrying humanitarian supplies were subject to substantial delays and other interference. Consequently, suppliers of humanitarian and commercial goods began using an unpaved mountainous route south of the city to deliver essential supplies. Trips from Ibb or Aden took many hours longer using the southern route.

62. In August 2015, as pro-government forces moved north after retaking Aden, the restrictions imposed by the Houthi-Saleh forces became acute. Snipers were used to enforce the restrictions.

63. Following his visit to Ta'izz in January 2016, the United Nations Humanitarian Coordinator noted challenges to humanitarian access to three districts within the city that had lasted several months.

64. Based on the information available, during the period July 2015 to January 2016, when they were at their most severe, the restrictions imposed by the Houthi-Saleh forces appear to have been in violation of international law. However, further investigation on restrictions and impediments imposed by all parties in Ta'izz is required.

3. Arbitrary detentions, enforced disappearances, torture and ill-treatment

65. Investigations by the Group of Experts confirm widespread arbitrary detention throughout the country, and ill-treatment and torture in some facilities. In most cases, detainees were not informed of the reasons for their arrest, were not charged, were denied access to lawyers or a judge and were held incommunicado for prolonged or indefinite periods. Some remain missing. Parties to the conflict are using undeclared detention facilities in an apparent, and if confirmed unlawful, attempt to put detainees outside the reach of the law. A few individuals detained in areas under the control of the de facto authorities reported that they had been brought before tribunals where proceedings flouted basic due process standards, including the right to legal representation. In Aden and Mukalla, detainees have carried out hunger strikes protesting the absence of due process. Death sentences have been passed and implemented in Sana'a and Aden, in the absence of due process standards.

66. In detention, during interrogation and while blindfolded and/or handcuffed, detainees were beaten, electrocuted, suspended upside down, drowned, threatened with violence against their families and held in solitary confinement for prolonged periods in violation of the absolute prohibition on torture, cruel or inhuman treatment. Reports indicate poor material conditions and grossly inadequate medical care for detainees. The Group has also received allegations of deaths in custody.

67. The Group of Experts conducted interviews related to detention by forces affiliated with the Government, as well as by coalition forces, and visited Al Mansoura Prison and Al Mansoura Block B (known as Bir Ahmed Prison II) in Aden.

68. The criminal justice system had become largely defunct in the areas where pro-government forces reclaimed control. Coalition-backed forces were empowered to fill the void, resulting in widespread arbitrary detention. Hundreds of individuals have been detained for perceived opposition to the Government or to the United Arab Emirates.

69. By early 2017, consistent reports began to surface of violations committed in detention facilities or undeclared centres under the control of the United Arab Emirates. President Hadi requested the coalition to hand over all places of detention and secret prisons that had been created outside the framework of the State institutions and to deliver case files to the judicial authorities (see S/2018/242). Dozens of detainees have since been released but, as of June 2018, the Government officials still claimed very little authority over detention facilities in the south.

70. Detainees have been subjected to torture and other cruel treatment in facilities such as the Al Rayyan and Bureiqa facilities (controlled by the United Arab Emirates); the 7 October facility in Abyan, Lahij Central Prison and Al Mansoura Prison (controlled by Security Belt Forces); and Ma'rib Political Security (controlled by the Government).

71. The Group of Experts also investigated sexual violence, including rape of adult male detainees, committed by United Arab Emirates personnel. At the Bureiqa coalition facility, detainees described being interrogated while naked, bound and blindfolded, sexually assaulted and raped. At Bir Ahmed Prison, forces of the United Arab Emirates raided the facility and perpetrated sexual violence. In March 2018, nearly 200 detainees were stripped naked in a group while personnel of the United Arab Emirates forcibly examined their anuses. During this search, multiple detainees were raped digitally and with tools and sticks.

72. In the context of naval operations around Hudaydah Governorate, Saudi Arabian forces routinely arrested Yemeni fishermen. The Group of Experts investigated cases that occurred between October 2016 and April 2018 in which 148 fishermen were arrested by coalition forces. Victims were taken to detention facilities in Saudi Arabia and remained incommunicado. Many were beaten and interrogated and some were kept in solitary confinement for prolonged periods. Most have been released, but 18 fishermen, all held for more than one year, remain missing.

73. The Group has reasonable grounds to believe that the Governments of Yemen, the United Arab Emirates and Saudi Arabia are responsible for human rights violations, including enforced disappearance. As most of these violations appear to be conflict related, they may amount to the following war crimes: rape, degrading and cruel treatment, torture and outrages upon personal dignity.

74. The Group conducted interviews, including with former detainees, related to detention by the de facto authorities, and visited Sana'a Central Prison. Access to the National Security Bureau and the Political Security Organization in Sana'a was conditioned by the de facto authorities on guarantees that the facilities visited would not be targeted by air strikes. The visits therefore did not take place as the Group of Experts was not in a position to offer such guarantees.

75. From September 2014, the de facto authorities consolidated control of detention facilities previously run by the Government as they seized territory, including in Sana'a, Sa'dah, Ibb, Hudaydah and parts of Ta'izz. They appointed "supervisors" in detention facilities, relieving existing authorities of their duties or rendering them redundant. Furthermore, they turned mosques, schools and homes confiscated from political opponents into undeclared detention centres.

76. Detainees include individuals perceived to be opposed to the de facto authorities, including students, human rights defenders, journalists and supporters of political parties.

77. Baha'is have also been targeted. The Group of Experts is aware of several Baha'is detained in Sana'a on the basis of their faith, some for more than two years. In 2018, another Baha'i, detained since 2013, was sentenced to death in Sana'a after a hearing neither he nor his family were allowed to attend. The same ruling also disbanded all Baha'i assemblies. The de facto authorities denied the Group's request to visit the victim in detention. In a televised speech on 23 March 2018, the leader of the Houthis described the Baha'i faith as "satanic" and "engaged in a war against Islam".

78. The Group of Experts received information concerning ill-treatment and torture of detainees at the national security bureau, the Political Security Organization, the Criminal Investigation Department and in the Habrah and Al-Thawra prisons in Sana'a, among other facilities under the control of the de facto authorities.

79. A significant number of former detainees believed they had been released as part of detainee exchange agreements between parties to the conflict.

80. The Group of Experts has reasonable grounds to believe that the de facto authorities are responsible for international human rights violations. Where these violations by the de facto authorities are associated with the armed conflict, they may amount to the following war crimes: degrading and cruel treatment, torture and outrages upon personal dignity.

4. Violations of freedom of expression

81. The Group of Experts has reasonable grounds to believe that, since September 2014, parties to the conflict in Yemen have severely restricted the right to freedom of expression. In addition, human rights defenders have faced relentless harassment, threats and smear campaigns from the Government, coalition forces, including those of Saudi Arabia and the United Arab Emirates, and the de facto authorities.

82. In this climate, women human rights defenders, journalists and activists have faced specific repression on the basis of gender. The Group has documented at least 20 such cases committed by parties to the conflict. Many women faced threats from all sides, suggesting that discrimination against women is endemic.

83. The coalition continued to impede the work of international media and human rights organizations by preventing their personnel from using United Nations flights since at least early 2017. Consequently, such independent observers can only take commercial flights to government-controlled areas and then must travel by land across dangerous front lines to other areas. Given the inherent insecurity, this measure by the coalition impedes independent and credible coverage of the situation in Yemen, and contributes to global neglect of the conflict.

84. Since 2016, in areas under their control, pro-government forces have harassed media and monitors by censoring television channels and raiding civil society organizations. The situation appears to have deteriorated since August 2017, with Security Belt Forces in Aden and the elite forces in the Hadramawt and Shabwah governorates intimidating those perceived to be critical of the United Arab Emirates and the forces backed by that country. In this context, journalists and demonstrators alike have been detained for peaceful protests complaining about detention practices and for publicly criticizing military operations. Furthermore, following the consolidation of actors allied to the Southern Transitional Council, backed by the United Arab Emirates, media perceived to be associated with the pro-Hadi elements of the Government have been targeted, such as a newspaper in Aden whose offices were stormed and burned in March 2018.

85. Since 2015, in areas under their control, the de facto authorities have carried out intimidation, arbitrary detention, ill-treatment and torture of vocal critics, in addition to raids on media outlets in Sana'a. Furthermore, they have blocked news websites, censored television channels and banned newspapers from publication. They have also raided or closed the premises of a large number of civil society organizations. Victims were targeted for their affiliation or perceived affiliation to political opponents or for having expressed their views in relation to the ongoing conflict. The de facto authorities have also frozen the assets, including bank accounts, of at least two non-governmental organizations; in one case, the account remains blocked. The Group of Experts is aware of at least 23 journalists who are still being detained by the de facto authorities. Most of them are allegedly held at the Political Security Organization and at the national security bureau in Sana'a, while others are believed to be in unofficial detention centres in Dhamar and Ibb. The whereabouts of several of these journalists are unknown.

5. Sexual violence

86. New levels of sexual violence have proliferated in Yemen since September 2014. The already limited capacity to address sexual and gender-based violence in the criminal justice system has collapsed. Survivors are re-victimized. New vulnerabilities have emerged from displacement, poverty and indiscriminate violence. Women, children and men are at serious risk of all forms of sexual violence and there is limited space to pursue protection and justice.

87. The Group of Experts investigated cases of sexual violence in the Bureiqa migrant detention centre in Aden. The facility housed several hundred Eritrean, Ethiopian and Somali migrants, asylum seekers and refugees who had been rounded up and detained by the Security Belt Forces. Conditions in the detention facility were dire. Rapes and sexual assault reportedly occurred in various parts of the facility, often in full view of other detainees, including family members, and guards. Survivors and witnesses described to the experts how each night guards selected women and boys for abuse. One former detainee described a guardroom with three beds where several guards assaulted several women simultaneously. Women were told to submit to rape or commit suicide. Others reported that individuals trying to resist or intervene were beaten, shot or killed. At least once guards ordered hundreds of Ethiopian male detainees to stand naked for hours in front of dozens of Ethiopian female detainees as punishment. Reportedly, verbal threats of rape accompanied the punishment.

88. In early April 2018, the Minister of the Interior publicly claimed to have dismissed the commander of the Bureiqa migrant detention centre from his position. All migrants were released by May 2018, but a new facility was being opened in Lahij Governorate.

89. The Group has also investigated allegations of sexual violence committed by Security Belt Forces in the Al Basateen area of the Dar Saad district of Aden. Since 2017, Security Belt Forces have controlled the area from a base in Al Basateen Police Station. The area hosts a population of at least 40,000 refugees, internally displaced persons and marginalized Yemenites. A majority of the population are Somali refugees who have been in Yemen for many years.

90. Victims and witnesses described to the Group of Experts persistent and pervasive aggressive behaviour, including sexual violence, perpetrated by the Security Belt Forces against the population. Examples include rape, arrest or abduction, disappearances and extortion.

91. One common practice involved security forces abducting and raping women, or threatening to, as a way to extort money from their families and communities. Security forces reportedly entered homes at night and took women to rape. Community leaders estimated receiving steady reports of sexual violence every few nights. The authorities did not conduct investigations or make arrests in relation to these violations. Violations continued as of May 2018.

92. There are reasonable grounds to believe that government personnel and Security Belt Forces have committed rape and other forms of serious sexual violence targeting vulnerable groups, including foreign migrants, internally displaced persons and other vulnerable groups, including women and children. The Government is responsible for violations of international human rights law and, as these appear to be conflict-related, international humanitarian law. Other States may also have responsibility.

93. Furthermore, individuals may be responsible for the war crimes of committing outrages upon personal dignity, in particular humiliating and degrading treatment, as well as rape and other forms of sexual violence.

94. In addition to the foregoing, the Group of Experts has received allegations of sexual violence committed by several parties to the conflict in Yemen, dating from 2015 to 2018. The violations verified in the present report are indicators that there may be more sexual violence by parties to the conflict requiring further investigation.

6. Child recruitment and use

95. The Secretary-General reported 842 verified cases of recruitment and use of boys as young as 11 years old in Yemen in 2017 (see A/72/865-S/2018/465). Nearly two thirds of these cases were attributed to the Houthi-Saleh Forces, with a substantial increase in the number attributed to the Security Belt Forces and the Yemen Armed Forces as compared with 2016. The United Nations also documented the deprivation of liberty of boys by armed forces and groups for their alleged association with opposing parties. The Group's investigations into the recruitment and use of children revealed similar concerns.

96. The Group of Experts received substantial information indicating that the Government, the coalition-backed forces and the Houthi-Saleh forces have all conscripted or enlisted children into armed forces or groups and used them to participate actively in hostilities. In most cases, the children were between 11 and 17 years old, but there have been consistent reports of the recruitment or use of children as young as 8 years old. The Group found reliable information on the use of children in many conflict-affected governorates.

97. According to witnesses and sources, in some areas Houthi-Saleh forces forcibly recruited children in schools, hospitals and door to door. In other areas, Houthi-Saleh forces relied on appeals to patriotism and financial incentives to attract child recruits. Moreover, Houthi-Saleh forces have used children in combat, at checkpoints and to plant explosive devices.

98. Sources alleged that pro-government forces recruited particularly vulnerable children in the internally displaced camps in Ma'rib, and offered significant payments for child recruits. Pro-government forces frequently used children in support roles, although they have also been used in combat on the front lines, such as in Shabwah and Hudaydah.

There have also been credible allegations that government and coalition forces detained children fighting with Houthi-Saleh forces and used them in prisoner exchanges.

99. While parties in Yemen expressed opinions to the contrary, the instruments that Yemen has ratified remain binding, and these acts would constitute violations of international human rights law and, in some cases, violations of international humanitarian law and war crimes.

F. Accountability

100. Information documented by the Group of Experts strongly suggests that violations and crimes under international law have been perpetrated and continue to be perpetrated in Yemen.

101. The primary legal responsibility for addressing these violations and crimes lies with the Government, which bears the duty to protect persons under its jurisdiction. All States that are parties to the conflict, including Yemen and the member States of the coalition, have responsibilities to investigate and prosecute violations that amount to crimes by their nationals and armed forces.

102. Given the gravity of the human rights situation in Yemen, a comprehensive approach to accountability is required for the realization of the rights to truth and adequate, effective and prompt reparation, and guarantees of non-recurrence. Such processes contribute to the fight against impunity, the reinstatement of the rule of law and, ultimately, reconciliation.

103. The fourth report of the National Commission of Inquiry suggests an increased willingness to address violations committed by all parties to the conflict. Nevertheless, the report asserts that the Commission has had no cooperation from the de facto authorities in Sana'a and that significant access issues continue to impede its work. In addition, cooperation by the Government and the coalition appears to remain superficial. Finally, the Commission is not an independent body.

104. In 2016, the coalition established the Joint Incidents Assessment Team to investigate allegations of unlawful coalition attacks. It would appear, however, that the Team lacks independence, its public findings contain insufficient details and that there is no mechanism to ensure implementation of its recommendations.

105. The path towards long-term peace and stability in Yemen must be through a genuine, joint and comprehensive accountability exercise involving all responsible State and non-State actors. This requires a deeper reflection on viable accountability options. A review of national and international accountability mechanisms is an imperative step towards defining a viable and sustainable criminal accountability framework in line with national obligations and international standards.

G. Conclusions and recommendations

106. **The Group of Experts has reasonable grounds to believe that the Governments of Yemen, the United Arab Emirates and Saudi Arabia are responsible for human rights violations, including unlawful deprivation of the right to life, arbitrary detention, rape, torture, ill-treatment, enforced disappearance and child recruitment, and serious violations of freedom of expression and economic, social and cultural rights, in particular the right to an adequate standard of living and the right to health.**

107. **The Group of Experts has reasonable grounds to believe that the de facto authorities are responsible, in the areas over which they exercise effective control, for human rights violations, including arbitrary detention, torture, ill-treatment and child recruitment, and serious restrictions on freedom of expression and of belief.**

108. **The Group has reasonable grounds to believe that the parties to the armed conflict in Yemen have committed a substantial number of violations of international humanitarian law. Subject to a determination by an independent and competent court:**

(a) **Individuals in the Government and the coalition, including Saudi Arabia and the United Arab Emirates, may have conducted attacks in violation of the principles of distinction, proportionality and precaution that may amount to war crimes;**

(b) **Individuals in the Government and the coalition, including Saudi Arabia and the United Arab Emirates, have committed acts that may amount to war crimes, including cruel treatment and torture, outrages upon personal dignity, rape and conscripting or enlisting children under the age of 15 or using them to participate actively in hostilities;**

(c) **Individuals in the de facto authorities have committed acts that may amount to war crimes, including cruel treatment and torture, outrages upon personal dignity and conscripting or enlisting children under the age of 15 or using them to participate actively in hostilities.**

109. **The Group of Experts has identified, where possible, individuals who may be responsible for international crimes, and the list of individuals has been submitted to the High Commissioner. More information is needed on some incidents documented by the Group to establish responsibilities.**

110. **In order to ensure justice for all victims of violations of international human rights and humanitarian law, and in the light of the ongoing armed conflict, the Group of Experts presents the following recommendations.**

111. **The Group of Experts recommends that parties to the conflict:**

(a) **Immediately cease acts of violence committed against civilians in violation of applicable international human rights and international humanitarian law, take all feasible precautions to protect civilians from the effects of hostilities and meet the basic needs of the civilian population, in particular women and children;**

(b) **Respect international humanitarian law, including in relation to the prohibition on attacks against civilians and civilian objects, and the core principles of distinction, proportionality and precaution;**

(c) **Take the necessary measures to remove disproportionate restrictions on the safe and expeditious entry into Yemen of humanitarian supplies and other goods indispensable to the civilian population, and the movement of persons including through Sana'a International Airport;**

(d) **Fulfil obligations to facilitate the rapid and unimpeded passage of humanitarian relief and unhindered access to medical facilities both in Yemen and abroad;**

(e) **Ensure that all persons deprived of their liberty have their detention reviewed by a judge in compliance with national and international law;**

(f) **Ensure that arrests of individuals in connection with the ongoing conflict are carried out on legal grounds only and supported by credible and sufficient evidence;**

(g) **Document all unofficial detention centres and transfer detainees to official detention facilities in line with national and international law;**

(h) **Create a national register for missing persons and inform families of the whereabouts of all detainees;**

(i) **Immediately cease all attacks against freedoms of expression and of belief, including detention, enforced disappearance and intimidation, and release all journalists and others detained for exercising their freedom of expression or belief;**

(j) **Cease acts of sexual and gender-based violence in all forms, including sexual violence against women and children, sexual violence in detention and the persecution of women activists;**

(k) Conduct transparent, independent, impartial and effective gender-sensitive investigations of all violations and crimes in accordance with international standards, to ensure accountability for the perpetrators and justice for the victims;

(l) Cease and prevent the recruitment and use of children in the armed conflict;

(m) Establish an independent and competent mechanism to ensure the identification, release, recovery and reintegration of all children, including girls, who have been recruited or used in hostilities by all parties to the conflict.

112. **The Group of Experts recommends that the international community, including the League of Arab States:**

(a) Promote efforts led by the Special Envoy of the Secretary-General for Yemen to cease hostilities, reach a sustainable and inclusive peace and ensure accountability for serious violations and crimes;

(b) Refrain from providing arms that could be used in the conflict in Yemen.

113. **Furthermore, the Group of Experts recommends that the Human Rights Council:**

(a) Ensure that the situation of human rights in Yemen remains on its agenda by renewing the mandate of the Group of Experts;

(b) Urge the Security Council to emphasize the human rights dimensions of the conflict in Yemen and the need to ensure that there will be no impunity for the most serious crimes.

II. Technical assistance provided by the Office of the High Commissioner to the National Commission of Inquiry

114. During the reporting period, the Office of the United Nations High Commissioner for Human Rights (OHCHR) continued to provide technical assistance to the National Commission of Inquiry pursuant to Council resolution 36/31. OHCHR organized seven training sessions and workshops for the commissioners and staff of the Commission on applicable international law, human rights monitoring and documentation, investigation methodologies, report writing, administration, finance and information management.

115. OHCHR conducted two training sessions in Kuala Lumpur in November and December 2017. The first session, for field monitors of the Commission, focused on human rights investigation and monitoring methodologies. The second session, for the investigators of the Commission, focused on applicable international law, human rights monitoring, gender integration and documentation in the context of limited access.

116. OHCHR conducted a workshop in January 2018 in Addis Ababa on documenting human rights violations and report writing for the commissioners of the Commission of Inquiry. This included the sharing of best practices by the Ethiopian Human Rights Commission. OHCHR held another workshop for the commissioners on protecting human rights in the context of countering terrorism in March 2018 in Amman.

117. OHCHR organized a training session on investigation methodologies for human rights violations in March 2018 in Beirut for investigators of the Commission. In April 2018, it delivered a training session for administration and finance staff of the Commission on best practices in archiving, information protection, finance and budgetary matters. It also organized a seminar on international humanitarian law for the commissioners in July 2018 in Amman. OHCHR was unable to proceed with two additional planned workshops that were to be held in Geneva.

Annex I

Mapping of actors

1. The Royal Saudi Arabian Armed Forces

Serial	*Name*	*Position*	*Date assumed role Remarks*
1	Crown Prince Mohammad Bin Salman	Minister of Defence	23 January 2015 Commander of the coalition in "Decisive Storm" Operation[1]
2	General Fayyadh al-Ruwaili[2]	Chairman of the Joint Chiefs of Staff	27 February 2018
3	Prince Lieutenant General Fahad bin Turki bin Abdalazeez	Joint Forces Commander	27 February 2018 Commander of the coalition
4	Lieutenant General Fahd bin Abdallah al-Mtair[3]	Land Forces Commander	27 February 2018
5	Prince Lieutenant General Turki bin Bandar bin Abdalazeez al-Saud[4]	Air Force Commander	27 February 2018
6	Admiral Fahd bin Abdulla al-Ghufaili[5]	Naval Commander	4 November 2017
7	Lieutenant General Mazyad Sulaiman al-Amro[6]	Air Defence Commander	27 February 2018
8	Lieutenant General Jarallah bin Mohammed bin Jarallah Al-Elwait	Strategic Missile Force Commander	27 February 2018
9	Major General Pilot Abdullah al-Ghamdi	Air Operations Director	Deputy Commander of the coalition

[1] www.mod.gov.sa/en/Leaders/Minister/Pages/CV.aspx.

[2] Replaced General Abdulrahman bin Saleh al-Bunyan who held the post since 2014.www.spa.gov.sa/viewfullstory.php?lang=en&newsid=1729621.

[3] Replaced Prince Lieutenant General Fahad bin Turki bin Abdalazeez. www.janes.com/article/78278/top-saudi-commanders-replaced.

[4] Replaced Major General Mohammed Saleh al-Otibi. www.spa.gov.sa/viewstory.php?lang=en&newsid=1729618.

[5] Replaced Admiral Abduallah bin Sultan bin Mohammad al-Sultan.

[6] Replaced Lieutenant General Mohammed bin Awadh bin Mansour Suhaim.

2. United Arab Emirates Armed Forces

Serial	*Name*	*Position*	*Location*	*Date assumed role Remarks*
1	Sheikh Khalifa bin Zayed al-Nahyan	Supreme Commander		3 November 2004
2	Sheikh Mohammed bin Zayed al-Nahyan	Deputy Supreme Commander		
3	Mohammed bin Rashid al-Maktoum[7]	Minister of Defence		
4	Lieutenant General Hamad Mohammed Thani al-Romaithi[8]	Chief of Staff of the Armed Forces		3 January 2005
5	Major General Eisa Saif al-Mazrouei	Deputy Chief of Staff		
6	Major General Saleh Mohammad Saleh al-Ameri	Commander of Ground Forces		
7	Major General Ibrahim Nasser Mohammed al-Alawi	Commander of Air Force and Air Defence		
8	Rear Admiral Sheikh Saeed Bin Hamdan Bin Mohammad al-Nahyan[9]	Commander of Navy		11 October 2017
9	Brigadier General Ali Ahmed el-Tanjee	Coalition Commander	Aden	May 2015–January 2016
10	Brigadier General Ali el-Nuaimee	Coalition Commander	Aden	January 2016–July 2016
11	Brigadier General Sultan el-Habsee	Coalition Commander	Aden	July 2016–January 2017
12	Brigadier General Naser el-Otaibee	Coalition Commander	Aden	January 2017–July 2017
13	Brigadier General Ahmed el-Blushee	Coalition Commander	Aden	July 2017–January 2018
14	Brigadier General Muhammad el-Hasani	Coalition Commander	Aden	January 2018–Present

[7] https://uaecabinet.ae/en/biography.

[8] https://uaecabinet.ae/en/details/news/ chief-of-staff-of-armed-forces-promoted-to-the-rank-of-minister.

[9] Replaced Rear Admiral Ibrahim al-Musharrakh.

Serial	*Name*	*Position*	*Location*	*Date assumed role Remarks*
15	Brigadier General Abd el-Salam al-Shahi	Coalition Commander	Western Coast	

3. Government of Yemen

(a) Yemen Armed Forces[10]

Serial	*Name*	*Position*	*Location*	*Date assumed role Remarks*
1	President Abdu Rabbu Mansour Hadi	Supreme Commander[11]		February 2012
2	Major General Ali Mohsen al-Ahmar	Adviser to the President for security and military affairs		December 2012
3	Major General Mohammad Ahmed Salem al-Subaihi	Minister of Defence[12]		kidnapped on 25 March 2015
4	Major General Mohammad Ali al-Maqdashi	Adviser to the Supreme Commander[13] Acting Minister of Defence, March 2018		Chief of the General Staff during May 2015 – September 2017
5	Major General Tahir Ali al-Aqaili[14]	Chief of the General Staff		4 September 2017
6	Major General Saleh Mohammad Timis[15]	1st Military District	Say'un	22 November 2016
	Major General Saleh Mohammad Timis	*37th Armored Brigade*	*Al-Khash'a*	*Al-Khash'a Axis Commander*
	Brigadier General Ahmad Ali Hadi	*315th Armored Brigade*	*Thamud*	
	Brigadier General Sameer Sharaf al-Hakemie[16]	*23rd Mechanized Brigade*	*Al-Abr*	

[10] The new structure established five military branches under the Ministry of Defence: Army, Air Force and Air Defence, Navy and Coastal Defence Forces, Border Guard, and Strategic Reserve Forces.

[11] According to the new structure, Missile Brigades and Presidential Production Brigades fall under the umbrella of the Supreme Commander.

[12] Position vacant from March 2015 to March 2018.

[13] Presidential Decree 124 (2017).

[14] Replaced Major General Mohammad Ali al-Maqdashi, Presidential Decree 125 (2017).

[15] Replaced Major General Abdul Rahman al Halili, Presidential Decree 154 (2016).

[16] Replaced Brigadier General Hamoud Naji.

Serial	Name	Position	Location	Date assumed role Remarks
	Major General Fahmi Haj Mahros[17]	*11th Border Guard Brigade*	*Al-Rumah*	
	Brigadier General Abdu Rabbu Abdel Allah	*135th Infantry Brigade*	*Say'un*	*Thamud Axis Commander*
7	Major General Faraj Salamin al-Bahasani[18]	2nd Military District	Al-Mukalla	Since 2015
	Brigadier General A'oad Salem al-Joa'i[19]	*27th Mechanized Brigade*	*Al-Rayyan Air Base*	
	Brigadier General Ahmed Hassan al-Hamdee	*190th Air defence*	*Al-Rayyan Air Base*	
	Brigadier General Abdullah Mansour al-Waleedi	*123rd Infantry Brigade*	*Al-Hat Camp, Al-Mahrah*	*Commander of Al-Ghaidah Axis*
	Brigadier General Mohammad Yahya al-Qadi	*137th Infantry Brigade*	*Al-Ghaidah*	
	Brigadier General Mohammad Ali al-Sofee	*1st Naval Infantry Brigade*	*Socotra*	*Resigned on 12 April 2018*
8	Major General Ahmed Hassan Gibran[20]	3rd Military District[21]	Ma'rib	21 January 2017
	Major General Ahmed Hassan Jibran[22]	*13th Infantry Brigade*	*Sahn Al-Jin Camp*	*21 January 2017*
	Brigadier General Mohsen al-Da'ari	*14th Armored Brigade*	*Sahn Al-Jin Camp*	
	Brigadier General Jahdal Hanash Karam	*21st Mech. Infantry Brigade*	*Ateq*	*Ataq Axis*
	Brigadier General Ali Saleh al-Kulaibi[23]	*19th Infantry Brigade*	*Ateq*	*October 2017* *Ataq Axis*

[17] Replaced Major General Saleh Mohammad Timis, Presidential Decree 157 (2016).

[18] On 29 June 2017, President Hadi additionally named Major General Faraj al-Bahasani Governor of Hadramaut to replace Major General Ahmed bin Brik.

[19] Replaced Brigadier General Abdulaziz al-Shamiri.

[20] Replaced Major General Abdel Rab al Shadadi.

[21] Presidential Decree 36 (2018), forming a new axis that incorporated the 26th Mech. Brigade from the 7th Military District, and appointing Major General Farah Bahib, commander of that brigade, leader of the axis.

[22] Replaced Major General Abdel Rab al-Shadadi.

[23] Replaced Brigadier General Masfer al Harthi.

Serial	Name	Position	Location	Date assumed role Remarks
	Brigadier General Khaled Nasser Yaslim	*107th Infantry Brigade*	*Safir*	
	Brigadier General Abdu Rabbu al-Shadadi	*312th Armored Brigade*	*Sirwah*	
	Brigadier General Naji Hanash[24]	*3rd Mountain Brigade*	*Ma'rib*	
9	Major General Fadhl Hasan[25]	4th Military District	Aden	21 November 2016
	Brigadier General Abdallah al-Subehi	*39th Armored Brigade*	*Khor Maksar*	
	Brigadier General Abdallah Saleh Mohammad al-Nakhebi[26]	*120th Air Defence Brigade*	*Aden*	
	Brigadier General Abu Baker Hussien	*15th Infantry Brigade*	*Zinjibar*	*Abyan Axis*
	Brigadier General Mohammad Ahmed Mulhem	*111th Infantry Brigade*	*Ahwar*	*Abyan Axis*
	Brigadier General Naser Abed Rabbu al-Tamje	*115th Infantry Brigade*	*Shaqra*	*Abyan Axis*
	Brigadier General Hamzah Ali Salim	*119th Infantry Brigade*	*Jaar*	*Abyan Axis*
	Brigadier General Sadeq Serhan	*22nd Armored brigade*	*Ta'izz*	*Ta'izz Axis*
	Brigadier General Abdel Rhman al-Shamsani	*17th Infantry Brigade*	*Central Prison, Ta'izz*	*Ta'izz Axis*
	Brigadier General Adnan al-Hamadi	*35th Armored Brigade*	*Al-Mukha and Ta'izz airport*	*Ta'izz Axis*
	Brigadier General Abdel Aziz al-Majedi	*170th Air Defence Brigade*	*Bab Al-Mandab*	*Ta'izz Axis*
	Brigadier General Thabit Muthana Naji al-Jwas[27]	*131st Infantry Brigade*	*Anad Airbase*	*Anad Axis*

[24] Replaced Brigadier General Mansour Ali A'id.

[25] Yemen's Southern Powder Keg, Chatham House, Peter Salisbury, 2018. Presidential Decree 155 (2016).

[26] Replaced Brigadier General Muhsen Mohammad al-Khabi.

[27] Yemen's Southern Powder Keg, Chatham House, Peter Salisbury, 2018.

Serial	*Name*	*Position*	*Location*	*Date assumed role Remarks*
	Brigadier General Mohammad Ali Abedalhaq	*201st Mech Brigade*	*Lahij*	*Anad Axis*
	Brigadier General Abu Baker Faraj al-ataiqi	*31st Armored Brigade*	*Aden*	*Anad Axis*
	Brigadier General Abdullah al-Subayhi[28]	*39th Aviation Brigade*	*Khor Maksar*	*Anad Axis*
	Major General Muqbil Saleh	*33rd Armored Brigade*	*Al-Dhale'e*	*Governor of Al-Dhale'e*
10	Major General Yahya Hussien Salah[29]	5th Military District[30]	Midi	27 February 2018
11	Major General Hashem Abdallah al-Ahmar[31]	6th Military District[32]	Al-Jawf	27 February 2018
12	Major General Naser al-Dhebani[33]	7th Military District	Nahim	August 2017
13	Brigadier General Naser Abd Rubbo Hadi Mansour	Presidential Protection Brigades	Aden	
	Brigadier General Sanad Abdallah al-Rahwa	*1st Presidential Brigade*	*Kraiter*	*Al-Masheq Palace*
	Brigadier General Abd al-Raqib Dabwan	*2nd Presidential Brigade*	*Ta'izz*	
	Brigadier General Ibrahim Haydan al-Sayari	*3rd Presidential Brigade*	*Khor Makser*	
	Brigadier General Muhran al-Qubati	*4th Presidential Brigade*	*Dar Said*	*Now in Al-Hudayadh*
	Brigadier General Adnan Rzaiq	*5th Presidential Brigade*	*Ta'izz*	

[28] Ibid.

[29] Presidential Decree 20 (2018).

[30] Area of responsibility is under control of the de facto authorities.

[31] Presidential Decree 20 (2018) Replaced Major General Wae'l al-Dulaymi who was commander since 2015.

[32] Area of responsibility (Amran, Sa'dah and Al-Jawf) is under control of the de facto authorities.

[33] Replaced Major General Esmaa'il Zahzoh.

(b) Provincial Security, Security Belt Forces[34] and Elite Forces

Serial	*Name*	*Position*	*Location*	*Remarks*
1	Major General Shall al-Shaye	Security Director	Aden	
2	Brigadier General Wadah Omer Abdul Aziz	Security Belt Forces[35] Commander and 2nd support Brigade	Aden	
3	Brigadier General Mounir Muhamoud Ali (Abu Yamamah)	1st Support Brigade	Aden	
4	Brigadier General Nabil al-Mashoushi	3rd Support Brigade	Aden	Removed in 2017
5	Brigadier General Saleh al-Sayed	Security Director	Lahij	
6	Captain Faisel al-Salemee	Security Belt Commander	Lahij	
7	Colonel Hader al-Shukhaty	4th Support Brigade	Lahij	
8	Colonel Mukhtar Ali al-Nubi	5th Support Brigade	Rdafan, Al-Dhale'e	
9	Colonel Khader al-Nub	Security Director	Abyan	
10	Brigadier General Abd al-Latif al-Sayed	Security Belt Commander	Abyan	
11	Major General Faraj Salemin al-Bahsani	Hadramaut Elite Forces Commander	Hadramaut	Governor of Hadramaut
12	Lieutenant colonel Mohammed Salem al-bohar al-Qamishi	Shabwani Elite Forces Commander	Shabwah	
13	Major Mahdi Mohammed Barahma	Rapid Intervention Forces	Shabwah	

[34] Established in March 2016 by Presidential Decree under the General Security Directorate of each governorate, who fall under the umbrella of the Ministry of Interior.

[35] Presidential Decree No. 60 (2016).

(c) Armed Groups

Serial	*Name*	*Position*	*Location*	*Area of control Remarks*
1	Hamoud Saeed al-Makhlafi (no military rank)	Chief of Military Council for Resistance[16]	Ta'izz	• Al-Rawdah and Zayed al-Mushki • Kalabah, parts of Al-Tahrir, Hawd Al-Ashraaf and Jabal Al-Ikhwah • The outskirts of Al-Kamb • Tho`baat
2	Colonel Adel Abdo Farea al-Dhubhani, (Abu al-Abbas)	Homat al-Aqeedah[17]	Ta'izz	• Old City • Cairo Fort and the buildings of Political Security • Entire Mudaffar and Al-Qahira • Jumhuri • Al-Jahmaliya area • Thawra
3	Adnan Ruzayq al-Shabwani (no military rank)	Hasm Battalions	Ta'izz	• HQ at Ta'izz University • Al-Manakh • Parts of the old airport area • Hawdh Al-Ashraf
4	Sheikh Sadek Mahyoob Hasan (Abu al-Sadouk) (no military rank)	Kata'ib al-Tawheed	Ta'izz	• Osaiferah • Al-'Ashrafiyah • Bab Musa and the Old Town • Haudh Al-Ashraf between Jahmailya and Thawra Hospital
5	al-Hussein bin Ali, currently Azaam al-Farhan (no military rank)	The Tramps Brigade[18]		Active in the western parts of the city and in Al-Dabab mountain region

[16] Military commander is Brigadier General Sadeq Serhan. The Military Council for Resistance is itself an umbrella body, coordinating the military operations of fighters affiliated with Islah and military units loyal to Ali Mohsen.

[17] A Ta'izz Salafist group with roots in Dammaj.

[18] A mixture of local youth with different ideological backgrounds, not initially affiliated with any political party.

Serial	*Name*	*Position*	*Location*	*Area of control Remarks*
6	Abu Zerah al-Mahrami (no military rank)	Yemeni Commander of Hudaydah Front[39]	Hudaydah	
7	Brigadier General Tareq Saleh[40]	National Resistance Forces	Hudaydah	Began operations on the western coast of Yemen front in April 2018
8	Abd Ruhman al-hajree (no military rank)	Tohama Resistance/ Tohama Brigades	Hudaydah	Since early 2017, these forces have been steadily advancing north along the Red Sea Coast toward Hudaydah[41]
9	Abu Zerah al-Mahrami (no military rank)	Giants Brigades	Hudaydah	Operations in Hays, Al-Tuhayat , Al-Garrahi , Al-Khawkhah , Zabid and Jabal Ras districts
	Ra'ed al-Habhi (no military rank)	*1st Brigade*	*Hudaydah*	
	Sheikh Hamdi Shukri (no military rank)	*2nd Brigade*	*Hudaydah*	
	Sheikh Abd Ruhman al-lahji (no military rank)	*3rd Brigade*	*Hudaydah*	
	Sheikh Nizar al-Wajeh (no military rank)	*4th Brigade*	*Hudaydah*	

[39] Supported by Coalition commander for the western front, Brigadier General (UAE) Abdul Salam al-Shehi.

[40] The nephew of the former president.

[41] The New Front in Yemen, What's at Stake in Hodeidah, Foreign Affairs, Peter Salisbury, 2018.

(4) De facto authorities

Serial	*Name*	*Position*	*Location*	*Remarks*
1	Abdulmalik Bader Aldain al-Houthi	Leader of the revolution		Political, no military rank
2	Mohammed Ali Abdulkarim al-Houthi	President of Supreme Revolutionary Committee[42]	Sana'a	Military, no rank
3	Mahdi al-Mashat[43]	President of supreme political council		Political, no military rank
4	Major General Yahya Mohammed al-Shami	Assistant of Supreme Commander	Sana'a	
5	Abdulkarim Ammer Aldain al-Houthi	Chairman of Executive committee	Sana'a	Military, no rank
6	Major General Mohammed Nasser al-Atifi	Minister of Defence	Sana'a	
7	Major General Mohammed Abdulkarim al-Ghumari	Chief of General Staff	Sana'a	
8	Major General Abdullah Yahya al-Hakim (Abu Ali al-Hakem)	Chief of military Intelligence	Sana'a	
	Brigadier General Amer Ali al-Marani	*Military Intelligence*		
9	Major General Mehdi Mqulah[44]	General Reserve Forces[45]	Sana'a	11 December 2016
	Colonel Mohamed al-Shu'aibi	*1st Presidential Protection Brigade*	*Sana'a*	
	Colonel Mohamed al-Jabri	*2nd Presidential Protection Brigade*	*Sana'a*	

[42] Also commanding popular committees which are functioning in three ways: integrated within military and security forces, working in parallel with military and security forces, and working separately and unilaterally.

[43] Replaced Saleh Ali al-Sammad who was killed in April 2018.

[44] Replaced Major General Ali bin Ali al-Jayefi who was killed in the Al-Kubra Hall attack in October 2016.

[45] Combat Strength of General Reserve Force consists of Presidential Protection Brigades, Special Operations Command and Missile Brigades Group.

Serial	Name	Position	Location	Remarks
	Brigadier General Fuad al-Imad	*3rd Presidential Protection Brigade*	*Sana'a*	
	Brigadier General Abdullah Abbas	*4th Presidential Protection Brigade*	*Sana'a*	
	Major General Mohammad Nasser al-Atefi	*Missile Brigades Group*[46]	*Sana'a*	*Defence Minister*
	Major General Husayn al-Ruhani	*Special Operations Command*[47]	*Al-Sobaha Camp*	
10	Brigadier General Ali Mohsen Obayd	83rd Artillery Brigade, Katusha	Al-Sawad camp	Defence Reserve
11	Major General Ibrahim Ali al-Shami	Air Force & Air Defence Commander	Dilamy Base	
	Brigadier General Ali Hussein al-Rooney	*140th Air defence Brigade*	*Dala' Shemlan*	
	Brigadier General Mohammed Abdullah al-Saar	*160th Air Defence Brigade*	*al-Sama' Camp*	
12	Major General Abduqalik Bader Aldain al-Houthi	Commander of Special Forces		
13	Major General Mubarak Salih al-Mishin	3rd Military District Commander	Ma'rib	
14	Major General Abdulatif Homood Almahdi[48]	4th Military District Commander		
	Brigadier General Hamoud al-Tahish	*22nd brigade*	*Ta'izz*	*Remained loyal to GPC*
	Brigadier General Hamoud Ahmed Dahmash	*35th armored brigade*	*Ta'izz*	*Brigade split*
	Unknown	*17th Infantry brigade*	*Ta'izz*	*Al-Janad, around Ta'izz International Airport*

[46] Combat Strength consists of 5th Brigade, 6th Brigade, and 8th Brigade.

[47] Includes the counter-terrorism and Special Forces Brigade, the latter commanded by Brigadier General Ahmed Dahhan al-Shay'ani.

[48] Replaced Major General Abu Ali al-Hakem.

Serial	*Name*	*Position*	*Location*	*Remarks*
	Brigadier General Abdullah al-Haddad	*170th air defence brigade*	*Ta'izz*	*Tariq airbase, near Ta'izz International Airport*
15	Major General Yusif al-Madani	5th Military District Commander	Hudaydah	
16	Major General Muhammad Yahya al-Hawari	6th Military District Commander	Amran/Sa'dah	
17	Major General Hamid al-Kharashi	7th Military District Commander	Dhamar/Sana'a	
18	Brigadier General Zakaria al-Mataa	Military Commander		
19	Major General Salih Mosfir Alshaer	Assistant of MoD		
20	Major General Ali Homood Almoshaki	Deputy Chief of General Staff		
21	Major General Abu Ali al-kahlani	Military Logistics		
22	Major General Muhammad Fadhl	Navy and Coastal Defence Commander		
23	Major General Muhammad al-Miqdad	Chief of Operations		
24	Major General Abdulqader Ahmad Qassem al-Shami	President of Political Security		
25	Major General Abdurab Saleh Jurfan	President of National Security		

Annex II

Access restrictions by the Government of Yemen/coalition

Introduction

1. The coalition has enforced severe naval and air restrictions in Yemen, to varying degrees, since March 2015, citing the arms embargo provisions of Security Council resolution 2216 (2015). Prior to the conflict, Yemen imported nearly 90 per cent of its food, medical supplies and fuel. These de facto blockades[1] have had widespread and devastating effects on the civilian population. Among other international legal obligations, the Experts find that they violate the proportionality rule of international humanitarian law.

2. The rule of proportionality prohibits attacks that may be expected to cause harm to the civilian population that would be excessive in relation to the concrete and direct military advantage anticipated.[2] Proportionality assessments are prospective, and therefore must be based on reasonable expectations, not a known result. If the harm to civilians would be excessive, then an attack must be cancelled or suspended.[3] Attacks that violate the rule of proportionality are considered indiscriminate[4].

3. The rule of proportionality applies to attacks, which are defined in international humanitarian law as acts of violence against the adversary.[5] "Attack" has traditionally been understood to mean the use of physical force. However, reflecting the state of armed conflict today, the Experts find persuasive the argument for a broader interpretation of "attacks", where the requisite violence for an attack can be found in the consequences of an operation. This view has been increasingly accepted in legal literature and military doctrine manuals, and has been embraced by the International Criminal Court.[6]

4. If the scope of attacks is interpreted more broadly to include blockades and other restrictions that cause significant injury and death, such restrictions are prohibited if they can be expected to disproportionately harm civilians.[7] The purpose of the proportionality rule is to preserve humanity in times of conflict and protect noncombatants. Such a reading of the proportionality rule would be in keeping with the explicit obligation of parties, incorporated in the requirement to take precautions, to take constant care to spare the civilian population, civilians and civilian objects in the conduct of military operations.[8]

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[1] In international law, a blockade is defined as a declared, notified, impartial and effective mechanism that aims to prevent *any* access, regardless of cargo or direction. The naval restrictions on access to Yemen could not qualify as a blockade, except during November 2017. The closure of Sana'a airport could qualify as a blockade. However, blockades are generally understood as applicable in international armed conflict and this report considers Yemen to be in a state of non-international armed conflict. Therefore, this report relies on the terminology "de facto blockades" to describe the whole of the coalition operations restricting access to Yemen.

[2] CIHL Rule 14.

[3] CIHL Rule 19, AP I Art 57(2)(b).

[4] AP I Art.51(5)(b).

[5] AP I Art.49.

[6] Phillip Drew, The Law of Maritime Blockade: Past, Present and Future (Oxford University Press, 2017), p.97 note 33; Michael Schmitt (ed.), Tallinn Manual on the International Law Applicable to Cyber Warfare (Cambridge University Press, 2013); Prosecutor v Bosco Ntaganda (Trial Chamber) [2014] ICC- 01/04-02/06 (para.46).

[7] Alternatively, an argument could be made that the proportionality rule should apply to military operations more broadly than attacks. This appears to be the approach of the San Remo Manual on International Law Applicable to Armed Conflicts at Sea (1994), which imported the proportionality language to cover a blockade scenario, without describing a blockade as an attack, or an act of violence.

[8] CIHL Rule 15, AP I Art 57(1).

Naval restrictions

5. Shortly after the coalition engaged in Yemen, the Government of Yemen closed the country's territorial waters and empowered the coalition to enforce entrance restrictions. Ships seeking entry to Yemen required authorization and were subject to coalition inspection. The restrictions immediately caused delays and prevented commercial and humanitarian goods from entering Yemen. Delays and uncertainties for shipping companies, along with increased insurance costs and operational risks in a conflict zone, reduced shipments to Yemen. By June 2015, only 15 per cent of pre-crisis imports were entering Yemen.[9]

6. These restrictions have continued even following the establishment of the United Nations Verification and Inspection Mechanism in Yemen (UNVIM). In November 2017, the coalition increased the restrictions, enforcing a total blockade on the country. While the total blockade was gradually lifted, coalition restrictions and inspections remain in place as of 30 June 2018.

Impact

7. Devastated by years of conflict, Yemen is only more reliant on imports now. The need cannot be met by humanitarian aid alone. Meanwhile, the capacity of Hudaydah port, where the majority of imports historically arrived and more than half of food milling and storage capacity is located, has been deleteriously affected by coalition airstrikes. Even so, during the conflict the port has remained critically important, with some 70 per cent of all imports entering the country through Hudaydah.[10]

8. Total imports of staple foods, though they declined at various periods during the conflict, have overall been sufficient to meet most of Yemen's needs, at least prior to the November 2017 blockade. The problem has been the price of food rather than its availability.

9. Prices have risen due to the increased costs of getting food to market. While this is in part due to prevailing insecurity, damaged infrastructure and additional taxation within Yemen, nearly all involved in business attribute the primary cause of price increases to the coalition's restrictions on naval imports. Every day that vessels are delayed, shippers incur demurrage fees, up to tens of thousands of dollars per day. The high costs of delays, as well as the unpredictability of delays and clearance, have led to inflated food prices.

10. Meanwhile, most Yemenis have suffered a loss of income due to the conflict, including the non-payment of salaries by the Central Bank of Yemen. The effects of the price increases coupled with an erosion of purchasing power have therefore been catastrophic on the population.

11. While supply became insufficient and the extreme unpredictability of the restrictions drove prices even higher, fewer people were able to afford food and more people went hungry. Humanitarian aid could not fill the gap.

12. While food requirements were generally being met prior to the November 2017 blockade, fuel imports have generally been insufficient throughout the conflict. This was exacerbated in June 2017 when the Government closed Ras Isa port, which primarily accommodated fuel.

13. The legacy of the November 2017 blockade and the ongoing restrictions imposed on vessels to the Red Sea ports have resulted in a decrease in requests to enter. From March through June 2018, requests had fallen 50–66 per cent compared to before the November 2017 blockade.

[9] www.unocha.org/sites/unocha/files/dms/Documents/25%20June%202015%20USG%20Yemen.pdf.

[10] https://logcluster.org/sites/default/files/logistics_cluster_yemen_hodeidahcontingencyplan_170322_0.pdf.

14. In March 2017, OCHA announced that Yemen had become the world's largest humanitarian crisis. As of May 2018, out of a population of 29.3m, nearly 17.8m were food insecure and 8.4m people were on the brink of famine. The hungry are even more susceptible to other health complications, including contracting disease. Since April 2017, a cholera epidemic has swept through Yemen at an unprecedented scale. Scarcity of fuel further drives the health crisis, limiting both the functioning of medical facilities and water supply.

Proportionality Assessment

Harm to the Civilian Population

15. The harm to Yemen's civilian population caused by severe restrictions on naval imports was foreseeable, given the country's pre-conflict reliance on imports and the criticality of Hudaydah port. The reliance of the population on naval imports for basic survival, and the harm, including injury and death, that would be caused by the economic impact of a disruption to that pipeline, were knowable facts available to those who planned and implemented the naval restrictions.

16. Moreover, a proportionality assessment need not be static. The continuing nature of such naval restrictions requires a continuing assessment. Most explicitly, the November 2017 blockade presented a juncture that required an updated assessment. The coalition had an obligation to reassess the effects of their methods on the civilian population, and the proportionality thereof. By then, the international community had repeatedly underscored the effects of the existing restrictions and had warned of catastrophic effects of the announced closure of all ports.

17. An additional concern is that the longer the restrictions last, the more difficult it will be for the civilian population to recover.

Military Advantage

18. According to coalition public statements, the restrictions are intended to enforce the arms embargo of Resolution 2216 (2015). The coalition has specifically highlighted Houthi use of ballistic missiles against Saudi Arabia.

19. The Experts make no assessment as to whether the restrictions could have been anticipated to be effective when first announced in 2015. But as the situation evolved, the contrary became evident, particularly in light of measures such as UNVIM. The restrictions are also unlikely to be effective in the absence of a clear and published list of prohibited items.[11]

20. Additional evidence of the ineffectiveness of the restrictions comes from the reports of the United Nations Security Council Panel of Experts tasked to investigate violations of the arms embargo. The Panel has found there is no indication that ballistic missiles are entering Yemen via Red Sea ports, and low likelihood that other weapons are.[12] In the years that the naval restrictions have been in place, no searches by either UNVIM or coalition forces have discovered weapons.[13]

21. Any effectiveness of the restrictions has clearly been limited, given that the Houthis continue to demonstrate the capability to strike Saudi Arabia with missiles.

22. All of these factors combined lead to the conclusion that the coalition naval restrictions cannot be reasonably expected to achieve the concrete and direct military advantage of preventing Houthi arms smuggling. Even if such a conclusion was not knowable in March 2015, it became increasingly obvious as the months and years passed.

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[11] The law of contraband requires published, reasonably specific contraband lists. San Remo Manual (1994) para.149.

[12] S/2018/68 Annex 33.

[13] S/2018/68 para.78.

Assessing the Proportionality

23. The effects on the civilian population of the naval restrictions imposed by coalition forces are clear. The harm to civilians can be and has been accurately estimated, particularly as the naval restrictions have continued and evolved over more than three years. The coalition and the Government of Yemen have had sufficient notice of the harm caused and their responsibility for it, and sufficient opportunity to correct the situation.

24. No possible military advantage could justify such sustained and extreme suffering by millions of people. When the coalition was able to assess that the naval restrictions were causing harm to the civilian population that was excessive in relation to the anticipated concrete and direct military advantage of those restrictions, the coalition was required by law to cancel or suspend those restrictions. It has failed to do so.

Closure of Sana'a Airport

25. Sana'a International Airport is the most crucial airport linking Yemen to the world. Since 2015, the coalition has implemented measures to restrict access to the airport, including, at times, requiring flights to first land in Saudi Arabia for inspection.

26. On 9 August 2016, the coalition effectively closed the airport by closing the surrounding airspace, thereby causing the cancellation of all commercial flights. The coalition has acknowledged responsibility for the airport closure by publicly indicating that it has the power to reopen the airport to commercial traffic.[14] Post hoc explanations for the closure of the airport relied on enforcement of resolution 2216 (2015) and purportedly ensuring the safety of passengers.[15]

27. The November 2017 blockade further closed Sana'a airport to all United Nations and humanitarian flights for three weeks.

Impact

28. Before the conflict, thousands traveled abroad each year for medical treatment unavailable in Yemen. Due to the conflict, the healthcare available in Yemen has deteriorated, resulting in even more patients in need of traveling abroad. 'Yemenia' Airways, the main commercial airline in Yemen, estimates that prior to the airport closure, at least one-third of passengers were travelling abroad to seek medical care.[16] In a letter to the United Nations Secretary-General dated 22 August 2017, the Ministry of Health in Sana'a reported that more than 13,000 people had died from health conditions that could have been treated abroad but for the airport closure.[17] By June 2018, those casualties are surely higher.

29. The airport closure has created significant issues for those in need of immediate medical care, including the chronically ill, who cannot leave the country by alternative routes. For the majority of the population in areas controlled by the de facto authorities, access to airports in Hadramaut and Aden requires long journeys across active frontlines at often prohibitive costs. Travelers must pass through myriad checkpoints operated by the various parties to the conflict, and are often scrutinized and sometimes harassed and detained. In the aftermath of the Al Kubra Hall airstrike in October 2016, officials of Saudi Arabia and the coalition forces acknowledged that adequate health care is not available in Yemen when they directed the transfer of those wounded in the airstrike "whose cases necessitate medical treatment outside Yemen".[18]

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[14] www.spa.gov.sa/viewstory.php?lang=en&newsid=1655689.

[15] www.spa.gov.sa/viewstory.php?lang=en&newsid=1527487; www.spa.gov.sa/viewstory.php?lang=en&newsid=1655689.

[16] https://reliefweb.int/sites/reliefweb.int/files/resources/YEMEN%202017%20HNO_Final.pdf.

[17] On file.

[18] www.spa.gov.sa/viewstory.php?lang=en&newsid=1547693.

Proportionality Assessment

30. The coalition has imposed a complete effective closure of Sana'a airport to all commercial flights since August 2016, including travel for individuals requiring immediate medical treatment abroad. The only exceptions have been flights arranged by Saudi Arabia. The coalition has provided no explanation of the military necessity of closing the airport completely. In the absence of such an explanation, the closure of Sana'a International Airport appears to violate the proportionality rule of international humanitarian law.

Conclusion

31. Based on the evidence available, there are reasonable grounds to believe access restrictions and de facto blockades violate the proportionality rule of international humanitarian law.[19] While this finding relies on an evolved understanding of the application of the principles of international humanitarian law, it is consistent with those principles. Given the grave consequences of these restrictive measures for the civilian population in Yemen, the Experts consider this approach warranted.

[19] This finding is without prejudice to the application of the other rules of international humanitarian law, including the principle of precautions in attack.

Annex III

Joint Incidents Assessment Team

1. The Experts reviewed the summaries of 71 incidents investigated by the Joint Incidents Assessment Team (JIAT), an investigative body established by the coalition in response to allegations of air strikes hitting or affecting civilians or civilian objects. All but one referred to cases brought to the attention of JIAT by the Office of the High Commissioner for Human Rights (OHCHR) or civil society organizations.

2. In assessing the findings, consideration was given to the fact that military commanders are often required to make decisions in the "fog of war"; that a number of accidents are unavoidable, and that commanders may not have the same information that is available to those reviewing an incident in hindsight. The Experts accepted that the publicly available information may only constitute summaries of JIAT findings. They, nonetheless, expressed serious concerns as the summaries lacked details of legal analyses undertaken, and rarely addressed reports of civilian casualties.

3. The Experts requested JIAT to provide information about its terms of reference, appointments process, and reporting structure. It has received no response. However, the Experts received reliable information suggesting that at times, JIAT findings were substantially altered by the Saudi Ministry of Foreign Affairs. The Experts also sought information about JIAT rules of procedure and the coalition's process for determining whether to implement JIAT recommendations, and has received no response.

Case Selection

4. The Experts requested JIAT to provide information on the case selection process. No response was received. JIAT has investigated certain prominent cases but appears to have chosen to investigate a majority of cases where very few civilian casualties or little damage to protected objects occurred. For example, JIAT investigated damage to a hospital on 7 July 2015, which the United Nations Panel of Experts[1] alleged was the result of collateral damage on a separate target. It does not appear to have investigated allegations in the same section of the report of direct strikes at the end of August 2015 on Maran Health Center in Sa'dah and on 3 September 2015 on Rizah Hospital, also in Sa'dah, which destroyed those facilities entirely.

5. In some instances, JIAT also appears to have opted to review cases where the organization alleging the unlawful airstrike noted the presence of a possible military objective at the strike site rather than cases in which no such suspicions were raised. For example, an international organization report documenting the 29 October 2016 attack on the al-Zaydiya security administration building north of the city of Hodeida noted the presence of Houthi/Saleh armed forces at the detention facility. JIAT appears not to have investigated other alleged incidents in the same report that make no such reference to any military presence at the sites attacked.

6. The JIAT has not responded to additional Experts' questions about its methodology or access to After Mission Damage reports. Nor has it explained procedures for making or receiving complaints.

The cases

7. JIAT has generally justified strikes on apparent civilians or civilian objects on the following three grounds: 1) accident or technical fault; 2) the coalition was not responsible for the attack; and 3) the object was a military objective.

[1] The Security Council Committee on sanctions is supported by the Panel of Experts established pursuant to resolutions 2140 (2014) and 2216 (2015).

Accident or technical fault

8. In 10 cases, JIAT concluded that strikes on civilians or civilian objects were accidental. As noted above, the Experts accepted that accidents happen during armed conflict. It is nonetheless concerned about those cases in which the JIAT summary failed to mention civilian casualties. For example, in response to allegations regarding an attack on Sa'dah's main street on 2 May or June 2015, JIAT asserted that "a laser-guided munition missed its target", but did not mention the 29 casualties alleged by the reporting organization. In another case, JIAT concluded that an airstrike accidentally hit a house in the outskirts of Ta'izz on 26 May 2015, but failed to make reference to the 15 civilian casualties that allegedly resulted. It also did not address the 47 alleged civilian casualties associated with the mis-identification of a well on 10 September 2016 in the Arhab area north of Sanaa.

9. The Experts also observed that in one of the cases, in response to allegations of an attack on a World Food Programme (WFP) convoy, JIAT found that "these trucks were a convoy of WFP and that the coalition forces were not aware of the timings and locations of the convoy". JIAT noted that "officials supervising this programme did not provide the coalition forces with memorandum showing the dates and timings of the movement of the convoy, which is a breach of the international conventions". This interpretation of the de-confliction system is incorrect. The system was established to help promote the safety and security of humanitarian activities and personnel, but it was never intended to relieve the parties of their obligations under international humanitarian law. The burden has always been on the parties to apply the principles of distinction, precaution and proportionality. In other words, it is for the coalition to properly identify what they intend to attack; it is not for humanitarian organizations to identify what may not be attacked. Moreover, the Experts have received reliable information indicating that during the period at issue, there was a presumption in the coalition that certain convoys were carrying military materiel. This presumption may have affected the targeting process.

10. In eight of the 10 cases, JIAT recommended that victims be compensated for loss or damage. The Experts requested that the coalition provide information about the follow-up to these recommendations. It has received no response.

The coalition is not responsible

11. In 33 cases, the coalition denies that it carried out the alleged strikes. On these cases, the Experts make the following general observations. First, the allegations were made by reliable entities and human rights organizations. Those organizations often visited the sites and spoke with victims and witnesses immediately after the attacks took place. Some also performed crater and weapons analysis. Second, when the coalition announced the end of 'Operation Decisive Storm' on 21 April 2015, it announced that "… Operation Decisive Storm focused on very specific objectives, including controlling the Yemeni airspace and preventing the Houthi militias and their supporters from using the Yemeni air force. The coalition was able to completely control Yemeni airspace within the first 15 minutes of the operation."[2] Third, even if the information is not conclusive that in each of the 33 cases the site was struck from the air, it is unlikely that Houthi/Saleh forces would have attacked sites in areas under their own effective control. In 25 cases, the attacks were in areas under effective de-facto authority control at the time the attacks took place. In eight cases, it is unclear which party had effective control over the sites at the time of the attacks. It is therefore difficult to understand how the damage could have occurred other than by air strikes as alleged.

12. In eight of the nine most recent findings released by JIAT, it has concluded that the coalition did not strike the sites as alleged. Its conclusion in the ninth case is unclear. The Experts are therefore additionally concerned about what appears to be an increasing reliance by JIAT on blanket denials of coalition airstrikes.

[2] www.saudiembassy.net/press-release/saudi-ministry-defense-daily-briefing-operation-decisive-storm.

Military objectives

13. JIAT finding in 24 cases that it had attacked military objectives also raises concerns. The Experts received reliable information that during the period covering at least 25 of the 28 cases at issue, dynamic targeting decisions were made by field commanders who routinely failed to consult with those in the Joint Command holding information about the 'No Strike Lists' and de-confliction information before approving attacks. It is not clear whether this was still the case in 2017 and 2018.

14. The Experts have serious concerns that where field commanders either did not have access to such information or did not seek such access, they may not have had the requisite information necessary to make proportionality assessments and may have failed to take all feasible precautions to avoid or minimise civilian loss of life, injury or damage to civilian objects.

15. All but one of the 24 strikes were on what appear to be civilian objects. In one case, an international NGO reported that Houthi/Saleh armed forces had placed an office in the Nour Center for the Care and Rehabilitation of the Blind, Sanaa. This would appear to be in violation of Article 58 of Additional Protocol I on precautions against attacks. However, such violations do not release other parties to the conflict from their own obligations, particularly to take precautionary measures to protect civilians.

16. The Experts have serious concerns about the paucity of information released by JIAT about how the coalition determined that apparently civilian objects had become military objectives as a result of use by Houthi/Saleh forces. Where JIAT relies on intelligence received, there is no indication as to whether the reliability of that intelligence has been assessed by the Joint Intelligence Assessment Centre and if so, how. There is no evidence that JIAT carries out its own independent assessment of the intelligence. In addition, as noted above there may have been a presumption within the coalition that certain types of vehicles were carrying weapons. In one case, an ambulance was struck in Sa'dah on 21 January 2016. The JIAT concluded that it had been carrying weapons, a conclusion at odds with the information provided by the humanitarian organization responsible for the ambulance.

17. As so few details are contained in JIAT summaries, it is impossible to ascertain how, once a military objective has been identified, proportionality assessments were carried out and what precautions in attack were implemented. Nor is it possible to ascertain whether JIAT has carried out its own independent assessments on how those procedures were carried out in individual cases. The response to the attack on Khamees market 15 March 2016 is emblematic as the JIAT findings contradict earlier coalition claims and appear to suggest that because the market struck was named "Thursday market", the coalition could not have anticipated that civilians would be present on a Tuesday.

18. With respect to the 11 October 2015 attack on a detention facility, the coalition found that Al-Bayda prison "was not a prison" but rather a weapons storage depot. Neither the coalition nor JIAT addressed the large number of civilian or *hors de combat* casualties alleged. Similarly, in response to allegations that the coalition unlawfully attacked a teachers' syndicate on 18 August 2015, JIAT claimed that the building had lost its protected status because Houthi leaders were in the building but failed to address the 49 civilian casualties alleged by OHCHR. With respect to another case, JIAT asserted that the targeted bridge was clear of civilians and vehicles during the time of both attacks but did not address the OHCHR report of at least 110 civilian casualties.

19. That proportionality assessments and precautionary measures are not mentioned in the JIAT summaries does not necessarily indicate that they were not performed. However, reliable information indicates the Saudi military is trained for conventional state on state conflict, and in particular, to attack military columns in austere environments, and has little if no training relevant to combatting insurgents in urban environments.[3] The type of conventional warfare that the Saudi military is trained to fight would require a different

[3] The Experts were unable to obtain information about military training with respect to other coalition member states.

approach to proportionality assessments and precautionary measures from that required when planning military operations in populated areas.

Conclusion

19. Based on the information available, the Experts have serious concerns about JIAT's independence and its ability to carry out impartial investigations. It would therefore appear that the coalition does not have a mechanism consistent with the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.[4] The Experts also have serious concerns over whether, and if so how JIAT carries out its own proportionality and precautions assessments.

[4] Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147(2005).

Annex IV

Attacks affecting civilians

1. On 26 March 2015, 10 countries, led by Saudi Arabia, formed a coalition to initiate military action against the Houthis in Yemen. The coalition also included Bahrain, Egypt, Jordan, Kuwait, Morocco, Senegal, Sudan, the United Arab Emirates and, until June 2017, Qatar.

2. The first phase of the operation, called 'Operation Decisive Storm', lasted less than one month, and reportedly focused on gaining air supremacy and targeting the Houthis' ballistic missile capabilities, troop concentrations, leadership locations, military camps and arms depots.[1] On 22 April 2015, the coalition announced the new 'Operation Restore Hope', with a shift in focus from military operations to the political process, though it still entailed the use of force, including airstrikes.[2] Credible information collected by the Yemen Data Project, shows that the coalition carried out approximately 18,000 raids in Yemen from 1 March 2015 to 30 June 2018,[3] which provides an indication of the campaign's intensity.[4]

3. Coalition airstrikes have been and continue to be the leading direct cause of civilian deaths and destruction of civilian infrastructure in the conflict. The intensity of the air campaign has been unceasing, even after its impact on the civilian population became apparent. While there is no comprehensive account of civilian casualties in Yemen, according to OHCHR, coalition airstrikes have killed at least 4,300 civilians.[5] Likewise, there is no comprehensive and independent assessment of the consequences of airstrikes on Yemen's infrastructure, but the coalition's air campaign has certainly contributed to Yemen's dire economic and humanitarian situation.

4. As with many other aspects of coalition operations, opacity has been a prominent and continuous feature of the air campaign in Yemen. To date, despite requests, the coalition has not shared its rules of engagement, standard operations procedures or methods to carry out proportionality assessments and its criteria to differentiate between civilians and combatants/fighters. The coalition's establishment of the JIAT in 2016, has not resulted in any meaningful improvement with respect to transparency or clarity (see Annex 3).

5. The first nine months of the air campaign were the most intense; according to OHCHR, at least 1,750 civilians were killed. Many airstrikes during that period raise serious concerns about international humanitarian law violations and possibly war crimes. An illustrative example is the coalition's bombing of Sa'dah Governorate between 6 April and 11 May 2015, in response to Houthi attacks on Saudi Arabia launched from the governorate. On 8 May 2015, the coalition's spokesperson seemed to imply that the entire city of Sa'dah was a military target.[6] Satellite imagery of Sa'dah after May 2015 shows over 3124 distinct impact locations, causing damage to or destruction of hundreds of buildings. On a visit to Sa'dah, the Experts confirmed the significant destruction and spoke to survivors. One airstrike hit a home, killing 27 members of a single family, including 17 children; others hit a market and a crowded petrol station. The Experts also witnessed first-hand the destruction of civilian infrastructure.

6. In likely the most visible attack on Yemen's economic infrastructure, whose reverberating effects on the civilian population are still felt today, in August 2015, the coalition bombed the Hudaydah seaport. The airstrikes destroyed critical cranes and

[1] www.youtube.com/watch?v=3EGe51MjqOk.

[2] www.operationrenewalofhope.com/operation-decisive-storm-ends-operation-renewal-of-hope-begins/#sthash.p0HaZ.rz6.dpbs.

[3] Approximately 5,800 in 2015, 4,800 in 2016, 5,200 in 2017, and 2,000 in 2018 (January to July 2018).

[4] In the absence of a response from the coalition to requests for specific information on its operations, the Experts are reliant on the scant publicly available information.

[5] Approximately 1,750 (2015), 1,070 (2016), 970 (2017) and 500 (January-June 2018).

[6] www.youtube.com/watch?v=l38aLG9l_ec.

warehouses in the main entry point for commercial and aid supplies to northern Yemen, where the majority of the population lives. The Experts visited the port, spoke to sources and observed the impact of these strikes on the port's operations. The foreseeable harm, affecting nearly all of Yemen, caused by the airstrikes on the port raises serious concerns about violations of international humanitarian law.

7. In 2016, ongoing peace negotiations seemed to have had a limited effect, but in August 2016, when the talks collapsed, the air campaign intensified dramatically. From August to December 2016, at least 600 civilians were killed in various airstrikes. The Experts have received information indicating that targeting practices adopted by the coalition in this period were found to be so flawed that some of the coalition's international backers ceased cooperation, and eventually stopped selling weapons to coalition member states. Two of the most prominent airstrikes of the conflict occurred during this period, Al Kubra hall, in Sana'a, and Abs hospital, in Hajjah Governorate.

8. The Experts visited the incident site and met with survivors and relatives of victims of the 8 October 2016 airstrikes that hit Al Kubra Hall in Sana'a city during the funeral of the father of the de facto Minister of Interior. The strikes killed at least 137 men, and injured 671 men and 24 boys. At the time of the attack, the hall, the largest public hall in Sana'a with a capacity to hold approximately 1,000 people, was full of mourners. Those in attendance included political and military leaders affiliated with the Houthis and former President Saleh, but the vast majority in attendance were civilians. According to the JIAT, the targeting was based on faulty intelligence provided by Yemeni authorities, and the airstrike was conducted without proper approval or in non-compliance with coalition procedures, including the use of precautionary measures. Based on the circumstances, including the prior advertisement and public nature of the funeral, as well as the timing of the strike, coalition actors should have been aware of the high risk of significant civilian casualties inherent in such a strike. The JIAT explanation would seem to indicate a major fault in the targeting process but it is unclear from their summary where the fault lies.

9. With respect to the 15 August 2016 airstrike against Abs Hospital, information reviewed by the Experts indicates that earlier that day airstrikes occurred within 10–15 km of the hospital and medical staff were preparing to receive casualties from those strikes. Around 15:30, a vehicle arrived and was admitted within the hospital compound. Within minutes, an airstrike hit within the hospital compound, near the emergency ward, where the vehicle had stopped and dozens of patients and caretakers were waiting for treatment. As a result of the strike, MSF reported that 19 people were killed, including five children, and 24 injured, including four children. The organization had previously provided the coordinates of the hospital to the coalition. The JIAT stated that coalition forces were "to apologise for the unintentional error, provide appropriate assistance to those affected, and launch an investigation with the persons in charge of the incident to look into whether they have violated the accredited rules of engagement and take appropriate action as regards the incident".[7] This attack raises serious concerns about proportionality and precautions.

10. Based on the available information, the Experts have not identified significant changes in the coalition's modus operandi. Airstrikes continued to hit markets, residential buildings, civilian vehicles, civilian boats and weddings celebrations in the last year. From 1 July 2017 until 30 June 2018, according to OHCHR, at least 1,114 civilians have been killed by airstrikes (604 men, 122 women and 388 children). Another 1,002 were injured (629 men, 91 women and 282 children).

11. As in previous years, significant peaks in the intensity of the air campaign and the number of civilian casualties seemed correlated to strategic developments, such as the 4 November 2017 Houthi missile fired at Riyadh, the first against the Saudi capital, and the unravelling of the Houthi/Saleh alliance in early December 2017. In the month between these developments, Yemen Data Project registered more than 900 air raids and it was also one of the bloodiest periods of the air campaign, with 465 civilians killed by airstrikes, according to OHCHR.

[7] www.spa.gov.sa/viewstory.php?lang=en&newsid=1567351.

12. A second peak in airstrikes and casualties took place following seven Houthi missiles launched against Saudi Arabia on 25 March 2018, and as significant changes were implemented in the military leadership of the coalition and the Yemen Armed Forces (see Annex 1). In April 2018, according to Yemen Data Project, approximately 400 air raids took place and, according to OHCHR, at least 200 civilians were killed.

13. The Experts prioritized investigation of incidents occurring since August 2017, to update OHCHR's last public report. Although the incidents investigated are only a small sample of the devastation caused by airstrikes, the Experts' detailed fact-finding in these cases allowed a more in-depth knowledge of the practices of the coalition.

Incidents Investigated

Date	*Location*	*Civilian Casualties*
23 August 2017	Bayt Al Athri area, Arhab district, Sana'a Governorate	At least 39 civilians killed, including eight children and one woman. 25 injured, including at least six children and one woman.
25 August 2017	Faj Attan neighborhood, Sabeen district, Amanat Al Asimah Governorate	At least 15 civilians killed, including three women and six children. 25 injured, including four women and five children.
1 November 2017	Al Layl Market/Hotel Olaaf area, Sahar district, Saa'da Governorate	31 male civilians killed, including six boys. 24 male civilians injured, including six boys.
11 November 2017	Fishermen' boats, Island of Al Bodhi, near Al Hudaydah	11 male civilians killed, one male civilian injured.
13 December 2017	Military Police College (used as a detention facility) Shaub area, Shaub district, Amanat Al Asimah Governorate	At least 42 male detainees killed, including eight boys.
20 December 2017	Private House, former Al Salam Sports Club, Bab Najran area, Sa'ada district, Sa'ada Governorate	At least 12 civilians killed, including at least three children and three women. Seven injured.
26 December 2017	Mahsees Market Shahrah, Al Haymah area, Attazziah district, Ta'izz Governorate	At least 36 male civilians killed, including nine boys. 46 men injured.
3 April 2018	Al Saleh City (Residential Complex of IDPs) Al Hudaydah city, Al Hudaydah Governorate	At least 12 civilians killed, including 10 children and two women. Approximately 15 civilians injured.
22 April 2018	Wedding Celebration, Al-Raqah village, Bani Qa'is district, Hajjah Governorate	At least 23 male civilians killed, including eight boys. More than 60 male civilians injured, including 29 boys.
22 May 2018	Fishing boat, Turfa Island, Al Hudaydah Governorate	Four male civilians killed, including one child.

Date	*Location*	*Civilian Casualties*
26 June 2018	Bus Road between Zabid and Al Jarrahi, Hudaydah Governorate	Nine male civilians killed, including two children. Ten civilians injured, including three children.

Conclusion

14. The 11 incidents investigated by the Experts raise serious concerns about the targeting process applied by the coalition. If there are errors in the targeting process that effectively, remove the protections provided by international humanitarian law, these would amount to violations. These may, depending on the circumstances, amount to war crimes by individuals at all levels in the member states of the coalition and the Government, including civilian officials.

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Technical assistance and capacity-building

Report of the United Nations High Commissioner for Human Rights on cooperation with Georgia

Summary

The present report is submitted pursuant to Human Rights Council resolution 37/40, in which the Council requested the United Nations High Commissioner for Human Rights to continue to provide technical assistance to Georgia through the presence of his office in Tbilisi and to present, inter alia, a written report on developments relating to and the implementation of the resolution at its thirty-ninth session. The Council also called for immediate access for the Office of the United Nations High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to Abkhazia, Georgia, and to the Tskhinvali region/South Ossetia, Georgia.

In the report the High Commissioner presents an update on technical assistance provided by OHCHR to strengthen the promotion and protection of human rights in Georgia since the presentation of his first report on this subject in 2017 (A/HRC/36/65). He also highlights the main human rights developments and challenges that need to be further addressed.

During the reporting period there has been no progress on granting access for OHCHR or international human rights mechanisms to Abkhazia and/or South Ossetia. The update contained in the report on the human rights situation concerning these regions is therefore based on information received by OHCHR and available in credible open-source documents.

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I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 37/40, in which the Council requested the United Nations High Commissioner for Human Rights to continue to provide technical assistance through the presence of his office in Tbilisi. The Council also called for immediate access for the Office of the United Nations High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia.[1]

2. The Council requested the High Commissioner to present an oral update on the follow-up to resolution 37/40 at its thirty-eighth session[2] and a written report on developments relating to and the implementation of the resolution at its thirty-ninth session.

3. In the current report the High Commissioner presents an update on the technical assistance provided by OHCHR in Georgia and on the main human rights developments since his first written report on this subject in 2017.[3] The report therefore covers the period from 1 June 2017 to 31 May 2018.

4. In April 2018, OHCHR posted on its website a call for submissions pursuant to resolution 37/40 to seek contributions from various stakeholders in order to inform the oral update and report of the High Commissioner. The present report therefore draws on information provided by the Government of Georgia, the Office of the Public Defender of Georgia (an "A" status national human rights institution), international and regional organizations and non-governmental organizations, as well as on other credible open-source documents.

5. OHCHR has continued to exercise due diligence to corroborate, to the extent possible, the validity of the information received, within the constraints of limited resources and the continuing lack of access to Abkhazia and South Ossetia. In the report the High Commissioner highlights key human rights issues and developments on the basis of information received by OHCHR and does not seek to present a comprehensive account of the human rights matters related to Georgia.

II. Technical assistance and human rights developments

6. The OHCHR Senior Human Rights Adviser for the South Caucasus, who has been deployed in Tbilisi since 2007 and supported by national staff in Georgia and Azerbaijan, with the benefit of the full cooperation of the host country, has continued to advise and provide technical assistance to the Government and institutions of Georgia, civil society organizations and other actors. He continued to focus on supporting the compliance of legislation, policies and practices with international human rights standards, addressing respective gaps and assisting the implementation of the National Human Rights Strategy and the related Action Plan.

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[1] For the purposes of the present report, Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia are referred to as Abkhazia and South Ossetia.

[2] The oral update was presented on 4 July 2018, with an archived webcast available at http://webtv.un.org/meetings-events/watch/item10-general-debate-34th-meeting-38th-regular-session-human-rights-council/5805366324001/?term=.

[3] Pursuant to Human Rights Council resolution 34/37, adopted in March 2017, an oral update and a written report of the High Commissioner (A/HRC/36/65) on the same subject were presented to the Council for the first time on 21 June and 28 September 2017, respectively. The archived webcast of the oral update is available at http://webtv.un.org/meetings-events/human-rights-council/regular-sessions/35th-session/watch/item10-general-debate-32nd-meeting-35th-regular-session-human-rights-council/5478270539001.

A. Main areas of technical assistance provided by the Office of the United Nations High Commissioner for Human Rights

7. Along with other United Nations entities, OHCHR assisted the Government of Georgia with the elaboration and implementation of its National Human Rights Action Plan 2018–2020, adopted in April 2018, including in the framework of the programme "Human rights for all", a joint United Nations initiative funded by the European Union. Such support included updating the Action Plan with recommendations of United Nations and regional human rights bodies and building the capacity of various national counterparts such as members and staff of the parliament, staff of the National Human Rights Secretariat, representatives of local self-government bodies, judges and court staff, police officers, legal professionals, journalists, civil society organizations, university students and youth groups. Between 1 June 2017 and 31 May 2018, OHCHR conducted 44 capacity-building activities in Georgia, including seminars, workshops and lectures. Most of these activities were planned in close consultation with the National Human Rights Secretariat in the Administration of the Government of Georgia and were conducted in response to requests by, and in cooperation with, the Government.

8. With OHCHR support, the parliament of Georgia introduced amendments to its regulations and increased its oversight role in the implementation of the country's human rights obligations. Since 2017, the relevant committees of the parliament[4] have held several hearings on the implementation by the executive branch of recommendations of international and regional human rights mechanisms and of the Public Defender as well as of the decisions of the European Court of Human Rights.

9. The Inter-Agency Council, established in 2014 to coordinate the implementation of the National Human Rights Action Plan, has, however, still not convened.

10. In this section of the report key human rights areas which OHCHR aimed to address through its technical assistance during the reporting period are highlighted.

1. Administration of justice

11. OHCHR has continued to support the justice sector, focusing on building the awareness and capacity of judges and court staff, including the Supreme Court, the courts of appeal and first instance courts, to apply international human rights standards. In close cooperation with the High School of Justice, OHCHR trained judges, with an emphasis on the right to equality and combating discrimination and hate speech; on the freedoms of opinion, expression and religion or belief; on the right to private and family life; and on access to justice for persons with disabilities. OHCHR developed two training modules for judges, on the prohibition of torture and on the right to private and family life. OHCHR also conducted relevant training-of-trainers workshops.

12. OHCHR has continued its well-established cooperation with the Georgian Bar Association. The training provided by OHCHR has continued to be included on the list of professional courses for practising lawyers.

13. According to the Government of Georgia, the implementation of a fourth wave of judicial reforms was ongoing and a judicial strategy for the period 2017–2021 was developed during the reporting period.

14. At the same time, OHCHR takes note of the information provided in the submission of the Public Defender of Georgia that "the independence of the courts is problematic". The Public Defender cited lack of internal checks and balances as well as the high number of lengthy proceedings in appeal courts, breaches of the principle of fairness and concerns related to the use of inadmissible evidence and reasoning of court decisions.

15. The Public Defender monitored the proceedings in the high-profile case of archpriest Giorgi Mamaladze (the so-called "cyanide case"), who was accused of plotting a murder. In her report, published in September 2017, she identified various procedural shortcomings in

[4] The Committee on Legal Issues and the Committee on Human Rights and Civic Integration.

the trial of Mr. Mamaladze such as lack of equality of arms, limitation of the right to a public trial, violations of the principle of presumption of innocence and absence of a reasoned judgment.[5]

16. Another high-profile case was the disappearance of Afgan Mukhtarli, an Azerbaijani journalist, from central Tbilisi on 29 May 2017. On 15 June 2017, the European Parliament strongly condemned the abduction of Mr. Mukhtarli and urged the Georgian authorities "to ensure a prompt, thorough, transparent and effective investigation into Afgan Mukhtarli's forced disappearance in Georgia and illegal transfer to Azerbaijan and to bring the perpetrators to justice".[6] According to various sources, including the submission from Human Rights Watch, the investigation opened into this case reportedly remained inconclusive one year after the incident.

17. In November 2017, the Grand Chamber of the European Court of Human Rights adopted a decision in the case *Merabishvili v. Georgia*, involving the detention of former Prime Minister of Georgia Ivane Merabishvili. The Court concluded that, while the detention of Mr. Merabishvili had initially been in conformity with article 5 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms (the right to liberty and security of person) and related to the investigation of offences based on a reasonable suspicion, the predominant purpose of detention later changed. According to the Court, the reason for the changed purpose of detention was to obtain information about former high-level political leaders, and "was thus chiefly meant for an ulterior purpose not prescribed by the Convention". The Court therefore established a violation of article 18 (limitation on use of restriction on rights) in conjunction with article 5 (1) of the Convention.[7]

2. Combating torture and ill-treatment

18. Georgia has achieved significant progress in combating torture and other types of ill-treatment in the penitentiary system, which has been acknowledged by various national and international mechanisms.[8]

19. However, as pointed out by various international and national actors, including in the submissions of the Public Defender and Human Rights Watch to OHCHR, lack of accountability for those who commit acts of torture or degrading treatment remains a serious problem.[9] According to Human Rights Watch, at the time of its submission in May 2018, the Prosecutor's Office had launched investigations into 63 allegations of torture and ill-treatment since 2014 at the request of the Ombudsperson, but none had led to a criminal prosecution.

20. On several occasions, international mechanisms recommended to the Government of Georgia that it create an independent body to investigate alleged violations by law enforcement agents. OHCHR has been advocating for the creation of such a mechanism for years. In February 2018, the Government endorsed a bill on the State inspector and submitted it to parliament. If the bill is adopted, the office of the inspector will absorb the current functions of the Personal Data Protection Inspector and will have the competence to investigate — but not to prosecute — allegations of serious human rights violations by law

[5] See "Public Defender's monitoring findings in the so-called cyanide case", 15 November 2017, available at http://ombudsman.ge/uploads/other/4/4916.pdf.

[6] See www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0267+0+DOC+XML+V0//EN.

[7] See https://hudoc.echr.coe.int/eng-press#{"itemid":["003-5927865-7571644"]}.

[8] See, for example, the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Georgia (A/HRC/31/57/Add.3).

[9] See, for example, the report of the Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, document CPT/Inf (2015) 42; National Human Rights Action Plan for 2016–2017 of Georgia; and *Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia 2017*, p. 65, available at www.ombudsman.ge/uploads/other/5/5301.pdf.

enforcement and other public officials. The bill envisages a State inspector elected for a single six-year term and accountable to parliament.

21. OHCHR considers this text to be a step forward. OHCHR provided comments on the bill, most of which were reflected in the version submitted to parliament. OHCHR further recommends eliminating from the current text provisions exempting the Minister of Internal Affairs and the Head of State Security from being investigated, limiting the role of prosecutorial authorities during the investigatory phase and enabling the State inspector to obtain permission to conduct investigatory actions directly through national courts.

3. Combating discrimination

22. Combating discrimination remains a priority for OHCHR capacity-building activities in Georgia. The Public Defender stated in her submission that the realization of the right to equality remained a challenge and that discrimination was frequent in the private sector. She stressed the need for the timely adoption of the draft amendments submitted by her Office to parliament in 2015 to eliminate shortcomings in the current anti-discrimination legislation. These included proposals to enforce the law in the private sector and to extend the deadline for filing complaints of alleged discrimination with the courts. The Public Defender also highlighted that the current law did not recognize harassment, sexual harassment and denial of reasonable accommodation for persons with disabilities as forms of discrimination.

23. In her submission, the Public Defender reported that her Office had considered 162 new cases of alleged discrimination in 2017. The largest number of complaints concerned alleged discrimination on the grounds of disability, gender, ethnicity, differing opinion, religion, sexual orientation and gender identity, citizenship and political opinion. According to the Public Defender, the most vulnerable groups in terms of realization of the right to equality remained women; persons with disabilities; children; lesbian, gay, bisexual, transgender and intersex persons; and members of religious minorities. Discrimination was most frequently alleged to occur in the area of precontractual and labour relationships and had also proved to be a problem in the allocation of social benefits.

24. As in 2017, at the invitation of the Government of Georgia, OHCHR observed a rally held on 17 May 2018 in Tbilisi by the lesbian, gay, bisexual, transgender and intersex community on the occasion of the International Day against Homophobia, Transphobia and Biphobia. While some lesbian, gay, bisexual, transgender and intersex organizations decided not to participate due to concerns over potential counter-demonstrations and threats of violence, significant protection ensured by the police made the rally possible. The presence of high-level officials at the site of the rally was perceived as a strong signal of the Government's commitment to ensure the right to peaceful assembly of all individuals.

25. Discrimination on religious grounds is a matter that OHCHR continues to address regularly through its capacity-building activities. In its first report on cooperation with Georgia, OHCHR highlighted the situation of Muslims in the city of Batumi who had been forced to pray in the open air due to the small size of the mosque and who had encountered difficulties in obtaining a permit for the construction of a new mosque.[10] According to information provided to OHCHR for the present report, the New Mosque Building Foundation in Batumi that purchased land in 2016 for the construction of a new mosque was denied a construction permit. It subsequently launched appeal proceedings before the courts. During the reporting period, OHCHR has not been able to confirm whether a reconstruction or expansion project for the existing mosque had begun.

4. Promoting gender equality and combating domestic violence

26. OHCHR has continued to contribute to advocacy by the United Nations country team in Georgia to promote gender equality and combat domestic violence. In 2017, Georgia ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and adopted a legislative package to align domestic

[10] See A/HRC/36/65, para. 22.

law with the Convention. OHCHR welcomes these developments, followed by the adoption on 11 April 2018 of the National Action Plan on Measures to be Implemented for Combating Violence against Women and Domestic Violence for the period 2018–2020.

27. In addition, in November 2017, the Office of the Public Defender launched the first monitoring report on femicide, with the support of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women). Within the Ministry of Internal Affairs, a specialized Human Rights Department was created in January 2018 to oversee, inter alia, investigations into cases of sexual and domestic violence, identify challenges and issue recommendations. Further to awareness-raising campaigns by UN-Women and the Georgian authorities, the United Nations country team has reported an increase in the number of disclosures and criminal prosecutions of cases of violence against women and domestic violence within the period 2014–2017.

28. Yet, in its submission to OHCHR the Office of the Public Defender underscored the high number of killings of women. It cited data from the Chief Prosecutor's Office according to which in 2017, investigations were launched into 26 killings of women (including cases involving evidence of domestic violence) and 15 attempted killings (including cases involving evidence of domestic violence). According to the Public Defender, the high number of killings of women was linked, inter alia, to the absence of a mechanism to monitor and assess risks of violence against women and domestic violence.

29. In her submission, the Public Defender stated that women's participation in Cabinet positions remained low for 2018. As of May 2018, 3 ministers out of 14 were women. While women comprised the majority of employees at the ministries, their share of managerial positions was low. Moreover, only one ministry had an adviser on gender issues; eight ministries did not have such a position at all and in six ministries the gender advisory function was performed by officials with other responsibilities. The Public Defender also highlighted women's limited participation in local self-governance, with a low number of women candidates in the 2017 local elections and weak representation in municipal councils. As of May 2018, there was only one female mayor in Georgia.

5. Business and human rights

30. According to several reports received by OHCHR, workplace safety and other worker protections are weak in Georgia, while investigations into workplace incidents rarely lead to accountability. Workers in the mining and construction industries are particularly affected. OHCHR has been closely following reports on deaths resulting from unsafe conditions of work in Georgia and stresses the need for urgent attention to the matter, including through a broader engagement of businesses on human rights. According to the Public Defender, 252 people died in the period 2011–2016 due to unsafe working conditions. In 2017, workplace accidents resulted in the deaths of 47 individuals and injuries to 106. According to the Government, 234 persons were prosecuted for violations of workplace safety rules in the period 2011–2016, 43 in 2017 and 23 between January and June 2018.

31. OHCHR notes the adoption of the Law on Occupational Safety in March 2018. It introduces, inter alia, a mechanism — the Labour Conditions Inspection Department of the Ministry of Labour, Health and Social Issues — tasked with enforcing applicable obligations on workplace safety, including by imposing sanctions when appropriate. The Public Defender welcomed this development. However, she expressed concerns over shortcomings in the new law, notably its limited scope, which excluded hard, harmful and dangerous work.

B. Access to Abkhazia and South Ossetia

32. During the reporting period, there has been no progress in granting access for OHCHR and international human rights mechanisms to Abkhazia and/or South Ossetia pursuant to Human Rights Council resolution 37/40.

33. On 17 April 2018, pursuant to that resolution, OHCHR sent letters to the authorities in control in Abkhazia and in South Ossetia seeking unfettered access to these areas to gather factual and reliable information on the human rights situation on the ground.

34. On 18 April 2018, OHCHR received a response from the authorities in control in Abkhazia, indicating that they did not intend to invite Human Rights Council experts due to what they considered to be an inability to express their position in such international forums. At the time of finalization of the present report, the authorities in control in South Ossetia had not replied to the above-mentioned letter from OHCHR.

35. In his 2018 report to the General Assembly on the status of internally displaced persons and refugees from Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, the Secretary-General reiterated his call to grant unfettered access for OHCHR to be able to assess human rights protection needs and to support related mechanisms on the ground.[11]

36. The Secretariat of the Council of Europe has not been allowed to visit Abkhazia and South Ossetia for the purpose of preparing its latest consolidated reports on Georgia. It therefore indicated that it had had no opportunity to assess the human rights situation on the ground. However, the Council of Europe was granted access to Abkhazia for the purpose of implementation of confidence-building measures, but not to South Ossetia.[12] In its decision of 2 May 2018, the Committee of Ministers of the Council of Europe expressed deep regret that the organization's Commissioner for Human Rights, its monitoring bodies or the Secretariat delegation preparing the Secretary-General's consolidated reports had not been granted access to these regions.[13]

37. During the period under review, the report on the human rights situation in Abkhazia prepared by two independent experts, Thomas Hammarberg and Magdalena Grono, following their earlier visits there,[14] became publicly available.[15] The authors underlined that further international visits to Abkhazia on human rights issues would benefit all parties.[16]

38. During the reporting period, several United Nations development and humanitarian actors continued to have operational access to Abkhazia. The authorities in control in Abkhazia and the Government of Georgia have, inter alia, allowed the Office of the United Nations High Commissioner for Refugees (UNHCR) to introduce the services of a second shuttle bus[17] to transport people across the Inguri Bridge, the main crossing point between Abkhazia and the Tbilisi-controlled territory.

39. Local staff of United Nations agencies and international non-governmental organizations who are allowed to access Abkhazia are, however, subjected to requirements, introduced by the authorities in control in Abkhazia, before crossing the Administrative Boundary Line, which have limited their operational flexibility.[18]

40. There has been no progress in granting access to South Ossetia to United Nations development and humanitarian agencies, nor to its human rights mechanisms.

41. OHCHR reiterates the importance of reviewing and, if necessary, adjusting or complementing the Georgian Law on Occupied Territories so as to facilitate unhindered, predictable and sustainable access and service delivery by humanitarian and development

[11] See A/72/847, para. 10.

[12] See, for example, "Consolidated report on the conflict in Georgia (October 2017–March 2018)", document SG/Inf (2018)15, paras. 5 and 73.

[13] See paragraph 11 of decision CM/Del/Dec(2018)1315/2.1, available at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016807c117a.

[14] See also A/HRC/36/65, para. 33.

[15] Thomas Hammarberg and Magdalena Grono, "Human rights in Abkhazia today", July 2017, available at www.palmecenter.se/wp-content/uploads/2017/07/Human-Rights-in-Abkhazia-Today-report-by-Thomas-Hammarberg-and-Magdalena-Grono.pdf.

[16] Ibid., pp. 10 and 76.

[17] On the services of the first shuttle bus, see, inter alia, A/HRC/36/65, para. 35.

[18] See A/72/847, para. 51.

actors in Abkhazia and South Ossetia.[19] According to information available to OHCHR, some provisions of the law continue to have a complicating effect on the operational environment, while the alternative proposals or mitigating solutions are considered insufficient.[20] The Council of Europe recalled in this regard that earlier draft amendments to relevant legislation that were in line with the recommendations of the European Commission for Democracy through Law were still pending before the parliament of Georgia.[21]

C. Situation of internally displaced persons and refugees

42. In resolution 37/40 the Human Rights Council expressed concern that internally displaced persons and refugees continued to be deprived of the right to return to their homes in a safe and dignified manner. Pursuant to General Assembly resolution 71/290, the Secretary-General prepared his annual report on the status of internally displaced persons and refugees from Abkhazia and South Ossetia (A/72/847), covering the period from 1 April 2017 to 31 March 2018. The present report will therefore not address this subject.

D. Human rights framework and key issues concerning Abkhazia and South Ossetia

43. The authorities in control in Abkhazia and South Ossetia are responsible for upholding the fundamental freedoms and human rights of all people living under their control because any conduct that affects the human rights of concerned individuals must be addressed, regardless of questions related to the status of territories and entities. [22]

44. In the present section, the main human rights matters concerning Abkhazia and South Ossetia during the reporting period are described. Due to the lack of access by OHCHR, the content is based on information received by the Office and available in credible open-source documents. The series of international human rights standards as underscored in the first report of the High Commissioner on this subject continue to apply.[23]

45. The report of Thomas Hammarberg and Magdalena Grono on human rights in Abkhazia, published during the period under review, supplemented the information available on human rights issues related to Abkhazia. There is no comparable independent baseline assessment of the human rights situation in South Ossetia.

46. In their report, Mr. Hammarberg and Ms. Grono provided an account of human rights issues identified in Abkhazia and put forward recommendations to address various shortcomings. The experts, as well as the European External Action Service in its submission, noted the existence of local mechanisms of relevance for human rights protection. Mr. Hammarberg and Ms. Grono also indicated that several existing human rights problems "can be addressed, and even resolved, before a comprehensive political agreement has been reached".[24]

47. During the reporting period, the absence of a political and legal solution, compounded by the ensuing political divergences that inform various decisions and practices, has continued to undermine the protection of human rights in Abkhazia and South Ossetia and to adversely affect the local population.

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[19] See also A/HRC/36/65, para. 37.

[20] See, inter alia, A/72/847, paras. 47–48.

[21] See SG/Inf(2018)15, para. 26.

[22] See also A/HRC/36/65, para. 40.

[23] Ibid., in particular paras. 46, 48, 51, 61, 66, 67, 71, 72 and 80.

[24] Hammarberg and Grono, p. 76.

1. Truth and accountability

Truth and accountability processes

48. During the reporting period, the International Criminal Court has continued to investigate alleged crimes committed in the context of an international armed conflict between 1 July and 10 October 2008 in and around South Ossetia, which include crimes against humanity and war crimes.[25]

49. On 23 May 2018, the Grand Chamber of the European Court of Human Rights held a hearing on application No. 38263/08 by the Government of Georgia concerning the armed conflict in August 2008 and its aftermath. In this case the Court is considering issues related to the right to life; torture and inhuman and degrading treatment; the rights to liberty and security; the right to respect for private and family life; the right to an effective remedy; protection of property; the right to education; and freedom of movement.[26]

Missing persons

50. The International Committee of the Red Cross (ICRC) has continued working under its coordination mechanisms established to clarify the fate of persons missing in relation to the armed conflicts of the 1990s and 2008 and their aftermaths. According to the information available as of 23 April 2018, more than 2,400 persons remained unaccounted for as a consequence of these conflicts.[27]

51. In connection with the conflict in Abkhazia in the 1990s, ICRC reported on the gradual recovery and identification of human remains as well as their transfer to the families.[28] Exhumations also took place in South Ossetia, but identification proved difficult. Discussions were held in February 2018 under the coordination mechanism on further necessary steps to clarify the fate and whereabouts of missing persons.[29]

52. The subject of missing persons continued to be raised within the Geneva international discussions during the reporting period. The work of an expert commissioned by the Organization for Security and Cooperation in Europe to focus on missing persons from South Ossetia is reportedly continuing.[30]

53. According to information received from the European External Action Service, the European Union Special Representative for the South Caucasus and the Crisis in Georgia encouraged the Government of Georgia to achieve progress in establishing a commission on missing persons.

2. Violations of the right to life

54. Although incidents of violations of the right to life have remained rare in the past few years, the death in custody of an ethnic Georgian, Archil Tatunashvili, in Tskhinvali, South Ossetia, following his alleged detention on 22 February 2018, and the subsequent handling of this incident are of great concern. The circumstances of the death of Mr. Tatunashvili remain unclear, with conflicting information received from various sources. While the authorities in control in South Ossetia reportedly made statements about heart failure being the reason for Mr. Tatunashvili's death, the Government of Georgia indicated that torture was the cause. According to available information, investigation and judicial proceedings by Georgian authorities on this case were ongoing as of May 2018.

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[25] See www.icc-cpi.int/Georgia.

[26] See www.communications-unlimited.nl/wp-content/uploads/2018/05/Grand-Chamber-hearing-Georgia-v.-Russia-II-1.pdf.

[27] See www.icrc.org/en/document/remains-another-22-persons-missing-1992-93-armed-conflict-abkhazia-identified.

[28] See ICRC, press releases, 23 April 2018, 16 October 2017 and 9 November 2017.

[29] See www.icrc.org/en/document/georgia-south-ossetia-meeting-find-those-missing-connection-conflicts-1990s-and-august-0.

[30] See, inter alia, A/72/847, para. 11.

55. The lack of progress in investigating and/or ensuring justice in two other incidents of alleged unlawful death or killing in past years continues to raise major concern. The alleged perpetrator of the killing of an ethnic Georgian, Giga Otkhozoria, at the Abkhaz Administrative Boundary Line in 2016 remains at large. According to the Public Defender of Georgia, there has also been no progress in ensuring justice in the case of the disappearance and death in 2014 of David Basharuli, a resident of Akhalgori, South Ossetia. These incidents contribute to a climate of impunity in both areas.

3. Restrictions on freedom of movement

56. Various reports indicated that restrictions on freedom of movement, mainly around the Administrative Boundary Lines, remained of particular concern in both Abkhazia and South Ossetia and adjacent areas. In their report on human rights in Abkhazia, Mr. Hammarberg and Ms. Grono referred to the situation related to freedom of movement as "an acute issue".[31] In addition to constituting a human right per se, freedom of movement is a condition necessary for the exercise of other rights and an important confidence-building measure. Immediate attention to ensuring its respect in accordance with international human rights norms and standards is essential.

57. According to information received by OHCHR, the process of so-called "borderization" has continued in both Abkhazia and South Ossetia, resulting in further limitations to freedom of movement and severely affecting local livelihoods. Installation of razor and barbed wire fences, trenches, "border signs" and other barriers across the Administrative Boundary Lines, compounded by the deployment of surveillance equipment, has continued. According to the submission of the Government of Georgia, the process in both regions has led to approximately 25 villages being cut off, 800 families losing access to agricultural lands and water supplies and 20 families being directly affected by barbed wire installed through their property.

58. The situation of the local population is reportedly rendered more vulnerable by the very limited availability of open and functioning crossing points across the Administrative Boundary Lines. In Abkhazia, only two crossing points — out of a total of six — remained functional at the time of the finalization of the present report. According to various sources, while the total number of persons crossing the Administrative Boundary Line has not decreased since the closure of former crossing points, their closure has affected the movement of the population residing in lower Gali District.

59. According to information from the Government of Georgia, only two crossing points are operating across the Administrative Boundary Line with South Ossetia and they are reportedly closed periodically for various reasons. The establishment of a "customs post" at the Mosabruni/Odzisi crossing point is reported, inter alia, to have added a layer of difficulty to the crossing process.[32]

60. The authorities in control in Abkhazia and South Ossetia are reported to have continued the practice of deprivation of liberty and/or levying of heavy fines in connection with crossing the Administrative Boundary Lines, notably at what they consider "unauthorized crossing points". The deprivation of liberty is usually of short duration, although cases of long-term duration in Abkhazia also occur in this context (see sect. D.4 below).

61. OHCHR has continued to receive information on the implications of various regulations, regimes and practices applied by the authorities in control in Abkhazia and South Ossetia with regard to the possession of personal documents. These include the so-called "Law on Procedures of Exit from the Republic of Abkhazia and the Entry into the Republic of Abkhazia" and the so-called "Law on the Legal Status of Foreigners in Abkhazia", providing, inter alia, for the introduction of a "foreign residence permit" meant to regulate the stay of ethnic Georgians in Abkhazia, particularly in Gali, Tkvarcheli and

[31] Hammarberg and Grono, p. 10.

[32] See, inter alia, A/72/847, para. 19; and SG/Inf(2018)15, para. 53.

Ochamchira. The authorities in control in South Ossetia reportedly introduced similar procedures related to entry and exit.[33]

62. Although the "foreign residence permits" were reportedly being issued to some extent in Gali and adjacent areas during the period under review, the vast majority of the population is reportedly reluctant to apply for such "permits", for various reasons. In order to obtain one, the applicant reportedly has to accept the status of foreigner, which results in a situation where a part of the local population in Abkhazia is compelled to declare itself as "foreign" and to register as such despite the fact that they have resided in Abkhazia for many generations. The European External Action Service in its submission underlined that, above all, ethnic Georgians in Gali did not want to be considered as foreigners in their homeland. The strict eligibility requirements and the uncertainty over the possibility to enjoy political and property rights under these documents have also been reported as concerns by various sources, including in submissions to OHCHR.

63. According to various sources, in this context a significant number of the residents in Gali, Tkvarcheli and Ochamchira, and their children, do not possess necessary identity documents, which further affects their ability to cross the Administrative Boundary Line or access services in Abkhazia. Due to the above-mentioned reluctance as well as the reportedly slow process of issuance of the "foreign residence permit", the authorities in control in Abkhazia continued to extend the validity of the "No. 9 forms", temporary documents that allow residents to cross the Administrative Boundary Line. According to the submission of the European External Action Service, the authorities in control in Abkhazia have indicated that they are reviewing the so-called "Law on the Legal Status of Foreigners in Abkhazia" and the provisions on the "foreign residence permit".

64. The Government of Georgia continues to consider the above-mentioned documents issued by the authorities in control in Abkhazia and South Ossetia as null and void.

65. The measures related to the so-called "borderization", the limited availability of functioning crossing points and the lack of clarity over necessary identity documents have continued to exacerbate the isolation and vulnerability of the local population. The rights to education, health and property are particularly affected by these measures, as elaborated below.

66. In November 2017, the Public Defender of Georgia published a special report on the impact of the closure of crossing points on the rights of the population living along Abkhazia's Administrative Boundary Line, which provides further details on the situation.[34]

4. Deprivation of liberty and allegations of ill-treatment

67. OHCHR has continued to receive reports of cases of deprivation of liberty in connection with the crossing of the Administrative Boundary Lines, notably at what the authorities in control consider "unauthorized crossing points". Many of the persons apprehended or detained in such cases are requested to pay considerable fines. In its submission to OHCHR, the Government of Georgia reported that between May 2017 and May 2018, it had registered 115 persons detained in South Ossetia and 47 in Abkhazia for so-called "illegal border crossing".

68. The Public Defender of Georgia has qualified "infringement of freedom of movement and illegal detentions by the Russian Border Guards along the Administrative Boundary Lines" as "one of the key security challenges facing local communities on both sides" of the Administrative Boundary Lines. Her Office reported that in 2017, 514 residents had been detained along the South Ossetian Administrative Boundary Line and 1,000 along the Abkhazian Administrative Boundary Line.

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[33] See A/72/847, para. 29.

[34] Available at www.ombudsman.ge/en/reports/specialuri-angarishebi/special-report-of-the-public-defender-of-georgia-on-the-impacts-of-the-closure-of-crossing-points-on-the-rights-of-the-population-living-along-abkhazias-administrative-boundary-line page.

69. The Council of Europe specifies that no comprehensive statistical data exist on the number of such detentions in South Ossetia, due to the fact that available information is limited to cases of detention of ethnic Georgians who are subsequently returned to Tbilisi-controlled territory. It is unclear to what extent data are available on individuals who remain in Tskhinvali and who are reportedly also affected.[35]

70. In their report, Mr. Hammarberg and Ms. Grono also mentioned the issue of such detention practices in Abkhazia. More generally, they stressed the need for new and more humane detention facilities and for interim measures to improve the conditions for inmates.[36]

71. The Office of the Public Defender of Georgia reported having documented several cases of physical violence against detainees in the detention facilities in Abkhazia and South Ossetia. It referred to data provided by the Georgian Security Service for 2014–2016, when 37 individuals reported having been subjected to physical abuse while being detained along one of the Administrative Boundary Lines.

5. Right to health

72. OHCHR received information indicating that the right to health, including access to health care, in both Abkhazia and South Ossetia continued to be seriously affected due to the restrictions on freedom of movement described above. Patients reportedly have to spend more money and time than before to travel to facilities and receive health services in the Tbilisi-controlled territory. One serious consequence is the delayed provision of health care, which raises particular concern in cases of medical emergencies. The reduced quality of health care is another reported concern.

73. In Abkhazia, some concerns have been reported about the impact of incomplete documentation and limited functioning of crossing points on the circulation of medical emergency vehicles across the Administrative Boundary Line and the consequent delayed provision of treatment. The difficulty of organizing responses to medical emergencies without documentation has been mentioned.[37] According to the European External Action Service, the evolving "borderization" has jeopardized access to free hepatitis C treatment under a 2017 initiative of the Government of Georgia to provide free treatment to the residents of Abkhazia and South Ossetia.

74. In South Ossetia, patients and medical emergency vehicles are reported to face difficulties due to the restrictions on crossing the Administrative Boundary Line. Rules reportedly introduced in November 2017 have been particularly restricting movement of emergency vehicles during night-time and on weekends.

75. The right to health is also affected by other decisions of the authorities in control. Various sources have reported on serious concerns about the total ban on abortion services introduced in Abkhazia in 2016. The United Nations country team in Georgia has also reported that the population in Abkhazia still lacks access to basic reproductive health services, including family planning, which are of particular importance in the context of the abortion ban. The United Nations Population Fund is currently providing support in this area with projects aimed at improving the reproductive health and rights of conflict-affected women and youth, strengthening resilience and fostering people-to-people interaction across the Administrative Boundary Line.

6. Right to education

76. The restrictions on the use of Georgian as a language of instruction reportedly continued to be applied in Abkhazia and were introduced in South Ossetia during the reporting period. According to various sources, these restrictions particularly affect the communities who identify as ethnic Georgians living in Gali, Abkhazia, as well as in Akhalgori and other areas in South Ossetia.

[35] See SG/Inf(2018)15, para. 54.
[36] Hammarberg and Grono, pp. 8 and 68.
[37] Ibid., p. 66.

77. In Abkhazia, Georgian as the language of instruction in courses for the lower grades continues to be replaced by Russian. According to various sources, this practice has proven to be a barrier, for both teachers and students, to providing or benefiting from quality education and reportedly runs counter to pupils' wishes. According to the Government of Georgia, since the introduction of these measures in 2015, 4,000 pupils have been deprived of the right to receive education in their native Georgian language. Mr. Hammarberg and Ms. Grono noted in their report that the "language of instruction issue in Gali has become critical and divisive, and requires urgent attention".[38]

78. The multifaceted restrictions on freedom of movement further complicate the situation. As a result of much longer travel times, children and youths who have been crossing the Administrative Boundary Line to attend schools or extracurricular activities in the Georgian language have reportedly found it difficult, if not impossible, to pursue their education and related activities across the line.

79. In South Ossetia, the authorities in control similarly decided to introduce Russian as the language of instruction in the Georgian-speaking schools, starting with the lower grades for the school year 2017/18. According to the Public Defender of Georgia, these measures apply to six primary schools in Akhalgori, where Georgian is now taught only as a foreign language. The Government of Georgia indicated that approximately 100 schoolchildren in Akhalgori, Znauri and Sinaguri had been affected.

7. Property issues

80. Property rights remain a complex matter in both Abkhazia and South Ossetia, with no progress reported during the period under review on restitution of, or compensation for, property left behind by internally displaced persons. The effects of the so-called "borderization" and the frequency of apprehensions due to crossing of the Administrative Boundary Lines hinder and discourage access by the local population to property situated across the lines. The lack of clarity over the necessary identity documents has resulted in further infringements on the right to property, with the "foreign residence permits" in Abkhazia reportedly not conferring the right to property. According to the Government of Georgia, the practice of deliberately burning and destroying the houses of ethnic Georgians continues on a regular basis.

81. In 2017, the authorities in control in South Ossetia reportedly renewed the practice of demolishing the ruins of houses belonging to internally displaced persons. The Government of Georgia in its submission referred to several cases registered in 2017 in Akhalgori, where the houses abandoned by ethnic Georgians were burned and looted. OHCHR received information expressing particular concern over the village of Eredvi, where the ruins of 268 houses, most of them belonging to displaced ethnic Georgians, were razed and removed in late 2017, reportedly to prepare the land for agricultural purposes. In this regard, the European External Action Service noted that while a procedure to request that such houses or their ruins not be demolished was in place, such requests must be submitted in Tskhinvali, thereby preventing displaced ethnic Georgians who had fled the region from pursuing this avenue.

8. Gender-based and domestic violence

82. In their report, Mr. Hammarberg and Ms. Grono referred to a number of interlocutors who described domestic violence as an existing issue but one which was *difficult* to discuss in Abkhazia. They also mentioned some concerns raised about the recent emergence of honour killings.[39]

83. According to information received from the United Nations country team in Georgia, UN-Women, supported by UNHCR, has established a programmatic presence in Abkhazia focusing primarily on gender-based violence. Through a joint project, UN-Women and UNHCR have supported non-governmental organizations to provide services

[38] Ibid., p. 9.
[39] Ibid., pp. 47–48.

for victims of violence against women and domestic violence, supported capacity-development of women's non-governmental organizations, implemented awareness-raising activities aimed at promoting zero tolerance of violence against women and domestic violence, and provided health counselling. As indicated in the submission of the United Nations country team received in May 2018, the project recorded 83 cases of violence against women. UN-Women noted, however, that the victims often chose not to disclose the abuse or violence.

9. Role of civil society

84. Reports received by OHCHR indicate that, since the introduction of local regulations on "foreign agents" in 2014, the space for civil society work has diminished considerably in South Ossetia. A number of non-governmental organizations in South Ossetia have ceased their activities since 2014 while others, especially those involved in confidence- and peacebuilding projects and interaction with international organizations, are reportedly subject to pressure and verbal assaults.

85. OHCHR received information on the alleged intimidation in 2017 of Tamara Mearakishvili, an ethnic Georgian and civil society activist in Akhalgori who had been cooperating with the international community and reporting on human rights violations. According to the Public Defender of Georgia and the European External Action Service, she was "unlawfully detained" and/or interrogated on several occasions and deprived of her identity documents. Information available in the media as of May 2018 indicated that she had been acquitted in one of the two cases against her.[40]

86. With regard to the situation in Abkhazia, Mr. Hammarberg and Ms. Grono noted the existence of numerous non-governmental groups that were generally operating without encountering restrictive requirements or controls. At the same time, they mentioned reports of the shrinking of operational space and funding from external sources for many non-governmental organizations in recent years, and cases of social pressure on non-governmental organizations.[41] The Council of Europe also reported about the continued stringent conditions faced by local non-governmental organizations funded by foreign donors.[42]

10. Confidence-building measures

87. The Council of Europe continued to implement confidence-building measures in Abkhazia based on the specific human rights needs of the affected population, while noting the impossibility of developing and implementing such measures in South Ossetia due to lack of access and the generally non-conducive environment for international engagement in this region.[43]

88. In April 2018, the Government of Georgia launched a package of proposals entitled "A step toward a better future", which is directed, inter alia, towards confidence-building between the communities across the Administrative Boundary Lines. The initiatives focus on enhancing and simplifying trade along the Administrative Boundary Lines; creating new education opportunities both internally and externally; facilitating access to documentation; and creating a mechanism to extend and simplify access to the benefits and regimes enjoyed by Georgia internationally (for example, the visa-free regime with the European Union).

89. The Secretary-General welcomed the recent statements and legislative initiatives of the Government of Georgia to enhance economic and people-to-people engagement across the Administrative Boundary Lines.[44] Given the positive impact that these proposals might

[40] See, for example, "South Ossetian court acquits civil activist Tamara Mearakashvili", JAM News, 4 May 2018.

[41] Hammarberg and Grono, p. 8.

[42] See SG/Inf(2018)15, para. 29.

[43] Ibid., paras. 67–73.

[44] See A/72/847, para. 61.

have on the human rights of the affected population in Abkhazia and South Ossetia. OHCHR echoes the Secretary-General's hope that these efforts will be translated into concrete steps to improve the situation of people in both regions.

III. Conclusions

90. **The High Commissioner reiterates his appreciation for the continuous cooperation between the Government of Georgia and his Office, which demonstrates the Government's commitment to human rights. Building on this strong partnership, OHCHR remains committed to further supporting the Government and other national stakeholders to continuously improve the promotion and protection of all human rights by all in Georgia, including through the implementation of the Human Rights Action Plan 2018–2020.**

91. **OHCHR welcomes the various achievements made during the reporting period, such as the progress on the draft law on the State inspector, policies to combat domestic violence and the adoption of the Law on Occupational Safety. Further attention is required to tackle persisting challenges in the administration of justice, to ensure equality and fight discrimination, to strengthen freedom of religion or belief, to ensure accountability for violations committed by law enforcement agents and to reduce gender-based and domestic violence in practice. Emerging challenges such as unsafe working conditions also require immediate attention.**

92. **The High Commissioner regrets that there has been no progress in granting access to OHCHR and other international human rights mechanisms to Abkhazia and South Ossetia pursuant to Human Rights Council resolution 37/40. While OHCHR welcomes the fact that the authorities in control in Abkhazia have continued to provide access to some United Nations development and humanitarian actors, it reiterates its call for the same treatment to be accorded to the human rights pillar. OHCHR is concerned about the lack of access by OHCHR and international human rights mechanisms to South Ossetia and the scarcity of information available on the human rights situation there. OHCHR reiterates its call to the authorities in control in South Ossetia to provide regular access to actors dealing with human rights. Access to these regions would enable OHCHR and other actors to conduct assessments so as to better understand human rights needs, tailor assistance and contribute to confidence-building with a view to enhancing human rights protection of the affected population.**

93. **The few available reports have pointed to serious human rights issues in Abkhazia and South Ossetia and also highlighted the need for credible and verified information. The absence of a political solution, compounded by ensuing political divergences that inform decisions and practices, continues to adversely affect the rights of the local population. Growing restrictions on freedom of movement and other measures have negative implications on the rights to education, health and property. Ethnic Georgians also appear to regularly face various forms of discrimination. The death in custody of Archil Tatunashvili in Tskhinvali in February 2018 and other unresolved cases of alleged unlawful death or killing need to be addressed with a view to establishing facts and response mechanisms in order to avoid tensions and, ultimately, to ensuring justice and accountability.**

94. **OHCHR stresses the importance of continued efforts to foster people-to-people contacts and welcomes initiatives in this regard. OHCHR also reiterates its support for efforts made in the context of the Geneva international discussions as a critical element in the creation of the necessary conditions for the improvement of the human rights situation of the affected people living in Abkhazia and South Ossetia and adjacent areas.**